

**2006**

**STATE OF NEBRASKA**

**STATUTES RELATING TO  
CHEMICAL TESTING AND BREATH TESTING  
DEVICE OPERATORS**

NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM



Department of Health and Human Services Regulation and Licensure  
Credentialing Division  
Nebraska State Office Building  
301 Centennial Mall South, Third Floor  
PO Box 94986  
Lincoln, NE 68509-4986

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**GAME AND PARKS  
STATE BOAT ACT**

**37-1201. Act, how cited; declaration of policy.** Sections 37-1201 to 37-12,110 shall be known and may be cited as the State Boat Act. It is the policy of this state to promote safety for persons and property in and connected with the use, operation, and equipment of vessels and to promote uniformity of laws relating thereto.

Source: Laws 1978, LB 21, § 1; Laws 2004, LB 560, § 3. Operative date July 16, 2004.

**37-1202. Definitions, where found.** For the purposes of the State Boat Act, unless the context otherwise requires, the definitions found in sections 37-1203 to 37-1210 shall be used.

Source: Laws 1978, LB 21, § 2; Laws 1989, LB 195, § 1; Laws 1999, LB 176, § 100. Operative date May 28, 1999.

**37-1203. Vessel, defined.** Vessel shall mean every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Source: Laws 1978, LB 21, §3.

**37-1204. Motorboat, defined.** Motorboat shall mean any watercraft propelled in any respect by machinery, including watercraft temporarily equipped with detachable motors, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successor thereto.

Source: Laws 1978, LB 21, §4.

**37-1204.01. Personal watercraft, defined.** Personal watercraft shall mean a class of motorboat less than sixteen feet in length which uses an internal combustion engine powering a jet pump as its primary source of motive propulsion and is designed to be operated by a person sitting, standing, or kneeling on the watercraft rather than in the conventional manner of boat operation.

Source: Laws 1999, LB 176, § 101. Operative date May 28, 1999.

**37-1205. Owner, defined.** Owner shall mean a person, other than a lienholder, having the property in or title to a motorboat. The term shall include a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term shall exclude a lessee under a lease not intended as security.

Source: Laws 1978, LB 21, §5.

**37-1206. Waters of this state, defined.** Waters of this state shall mean any waters within the territorial limits of Nebraska.

Source: Laws 1978, LB 21, §6.

**37-1207. Person, defined.** Person shall mean an individual, partnership, limited liability company, firm, corporation, association, or other entity.

Source: Laws 1978, LB 21, §7; Laws 1993, LB 121, §204.

**37-1208. Operate, defined.** Operate shall mean to navigate or otherwise use a motorboat or vessel.

Source: Laws 1978, LB 21, §8.

**37-1209. Commission, defined.** Commission shall mean the Game and Parks Commission.

Source: Laws 1978, LB 21, §9.

**37-1210. Length, defined.** Length, as it applies to vessels, shall mean extreme overall length.

Source: Laws 1978, LB 21, §10.

**37-1211. Motorboat; numbering required; operation of unnumbered motorboat prohibited; exceptions.** (1) Except as provided in subsections (2) and (3) of this section and sections 37-1249 and 37-1250, every motorboat on the waters of this state shall be numbered and no person shall operate or give permission for the operation of any vessel on such waters unless the vessel is numbered in accordance with the State Boat Act or in accordance with the laws of another state if the commission has by regulation approved the numbering system of such state and unless the certificate of number awarded to such vessel is in full force and effect and the identifying number set forth in the certificate of number is displayed and legible on each side of the forward half of the vessel.

(2) The owner of each motorboat may operate or give permission for the operation of such vessel for thirty days from the date the vessel was acquired in anticipation of the vessel being numbered. A duly executed bill of sale, certificate of title, or

other satisfactory evidence of the right of possession of the vessel must be available for inspection at all times from the operator of the vessel.

(3) The owner or his or her invitee who operates a personal watercraft on any body of water (a) which is entirely upon privately owned land owned by only one person or one family and, if leased, leased by only one person or one family, (b) which does not connect by any permanent or intermittent inflow or outflow with other water outside such land, and (c) which is not operated on a commercial basis for profit may operate any personal watercraft on such body of water without complying with subsection (1) of this section.

Source: Laws 1978, LB 21, §11; Laws 1995, LB 376, §1; Laws 1998, LB 922, §394. Effective date July 15, 1998.

**37-1212. Manufacturers; retailers; temporary numbering; certificate; fee.** A person engaged in the manufacture or sale of vessels of a type otherwise required to be numbered under the State Boat Act, upon application to the county treasurer of the county in which the applicant resides or the business location of the manufacturer or retailer on forms prescribed by the commission, may obtain certificates of number for use in the testing or demonstrating of such vessels upon payment of a fee of not less than forty dollars and not more than forty-six dollars, as established by the commission pursuant to section 37-327, for each registration. Certificates of number so issued may be used by the applicant in the testing or demonstrating of vessels by temporary placement of the numbers assigned by such certificate on the vessel so tested or demonstrated. Such temporary placement of numbers shall otherwise be as prescribed by the act.

Source: Laws 1978, LB 21, § 12; Laws 1993, LB 235, § 35; Laws 1998, LB 922, § 395; Laws 2001, LB 131, § 1; Laws 2003, LB 306, § 20. Operative date July 1, 2004.

**37.1213. Vessels; classification.** Vessels subject to the State Boat Act shall be divided into four classes as follows:

Class 1. Less than sixteen feet in length including all canoes regardless of length;

Class 2. Sixteen feet or over and less than twenty-six feet in length;

Class 3. Twenty-six feet or over and less than forty feet in length; and

Class 4. Forty feet or over.

Source: Laws 1978, LB 21, § 13; Laws 1999, LB 176, § 110. Operative date May 28, 1999.

**37-1214. Motorboat; registration; period valid; application; fee.** (1) Except as otherwise provided in section 37-1211, the owner of each motorboat shall register such vessel or renew the registration every three years as provided in section 37-1226. The owner of such vessel shall file an initial application for a certificate of number pursuant to section 37-1216 with a county treasurer on forms approved and provided by the commission. The application shall be signed by the owner of the vessel, shall contain the year manufactured, and shall be accompanied by a fee for the three-year period of not less than twenty dollars and not more than twenty-three dollars for Class 1 boats, not less than forty dollars and not more than forty-six dollars for Class 2 boats, not less than sixty dollars and not more than sixty-seven dollars and fifty cents for Class 3 boats, and not less than one hundred dollars and not more than one hundred fifteen dollars for Class 4 boats, as established by the commission pursuant to section 37-327.

(2) If a county board consolidates services under the office of a designated county official other than the county treasurer pursuant to section 23-186, the powers and duties of the county treasurer relating to registration under sections 37-1214 to 37-1227 shall be performed by the designated county official.

Source: Laws 1978, LB 21, § 14; Laws 1993, LB 235, § 36; Laws 1994, LB 123, § 1; Laws 1995, LB 376, § 2; Laws 1996, LB 464, § 2; Laws 1997, LB 720, § 1; Laws 1998, LB 922, § 396; Laws 1999, LB 176, § 111; Laws 2003, LB 305, § 20; Laws 2003, LB 306, § 21. Note: The changes made by LB 305 became operative June 1, 2003. The changes made by LB 306 became operative July 1, 2004.

**37-1215. Motorboat; registration period already commenced; fee reduced; computation.** In the event an application is made after the beginning of any registration period for registration of any vessel not previously registered by the applicant in this state, the license fee on such vessel shall be reduced by one thirty-sixth for each full month of the registration period already expired as of the date such vessel was acquired. The county treasurer or designated county official shall compute the registration fee on forms and pursuant to rules of the commission.

Source: Laws 1978, LB 21, §15; Laws 1996, LB 464, §3. Operative date January 1, 1997.

**37-1216. Motorboat; application for registration; issuance of a certificate of number; how displayed.** After the owner of the vessel submits an application as provided in section 37-1214 and presents a certificate of title if required pursuant to section 37-1276, the county treasurer or designated county official shall enter the application upon the records of the office and issue to the applicant a certificate of number stating the number awarded to the vessel and the name and address of the owner. The number shall be displayed on each side of the bow, and the numbers shall be at least three inches high, of block characteristics, contrasting in color with the boat, and clearly visible from a distance of one hundred feet. The commission shall assign each county treasurer or designated county official a block of numbers and certificates therefor.

Source: Laws 1978, LB 21, §16; Laws 1994, LB 123, §2; Laws 1996, LB 464, §4; Laws 1997, LB 720, §2. Operative



date March 27, 1997.

**37-1217. Motorboat; registration; fee to recover administrative costs.** When the county treasurer or designated county official or the commission registers a vessel, such official or the commission shall be entitled to collect and retain a fee, in addition to the registration fee, of not less than three dollars and not more than four dollars on each registration issued, as established by the commission pursuant to section 37-327, as reimbursement for administrative costs incurred in issuing such certificate of registration. Such fee shall be credited to the general fund of the county and shall be included by the county treasurer or designated county official in his or her report of fees as provided by law.

Source: Laws 1978, LB 21, § 17; Laws 1993, LB 235, § 37; Laws 1996, LB 464, § 5; Laws 1998, LB 922, § 397; Laws 2003, LB 306, § 22. Operative date July 1, 2004.

**37-1218. Motorboat; registration transmitted to Game and Parks Commission; when; duplicate copy.** Each county treasurer or designated county official providing registration to an owner of a vessel shall transmit on or before the thirtieth day of the following month registration information to the commission. The county treasurer or designated county official shall retain a duplicate copy of the registration.

Source: Laws 1978, LB 21, § 18; Laws 1996, LB 464, § 6; Laws 2001, LB 131, § 2. Effective date September 1, 2001.

**37-1218.01. Repealed.** Laws 2001, LB 131, s. 8.

**37-1219. Registration fees; remitted to commission; when; form; duplicate copy.** All registration fees received by the county treasurers or designated county officials shall be remitted on or before the thirtieth day of the following month to the secretary of the commission. All remittances shall be upon a form to be furnished by the commission and a duplicate copy shall be retained by the county treasurer or designated county official.

Source: Laws 1978, LB 21, § 19; Laws 1996, LB 464, § 7. Operative date January 1, 1997.

**37-1220. Registration fees; deposited with State Treasurer; placed in State Game Fund.** The secretary of the commission shall deposit daily with the State Treasurer all registration fees received by him and shall take the receipt of the treasurer therefor. The State Treasurer shall place all of the fees so deposited in the State Game Fund.

Source: Laws 1978, LB 21, § 20.

**37-1221. Motorboat; number awarded; maintained in legible condition; certificate of number; available for inspection; when removed.** (1) The number awarded or assigned pursuant to section 37-1216 shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the vessel for which issued, whenever such vessel is in operation.

(2) The person whose name appears on a certificate of number as an owner of a vessel shall remove the number and identification symbol when (a) the vessel is documented by the United States Coast Guard, (b) the certificate of number was obtained by false statement, (c) the fees for issuance of a number are not paid, or (d) the vessel is no longer principally used in the state where the certificate was issued.

Source: Laws 1978, LB 21, § 21.

**37-1222. Vessel; previously numbered under a federally approved numbering system; registration of number; when.** The owner of any vessel already covered by a number in full force and effect which has been awarded to it pursuant to then operative federal law or a federally approved numbering system of another state shall register the number prior to operating the vessel on the waters of this state in excess of the sixty-day reciprocity period provided for in subdivision (1) of section 37-1249. Such registration shall be in the manner and pursuant to the procedure required for the award of a number under sections 37-1214 to 37-1217.

Source: Laws 1978, LB 21, § 22.

**37-1223. Motorboat; change of ownership; new application; original number retained; when.** If the ownership of a vessel changes, a new application form with fee shall be filed with the county treasurer or designated county official and a new certificate of number stating the number awarded shall be issued in the same manner as provided for in an original award of number. The county treasurer or designated county official may allow the new owner to retain the previously assigned boat number if the existing number is serviceable. The commission shall provide procedures for the county treasurers or designated county officials to follow in determining whether the existing number is serviceable.

Source: Laws 1978, LB 21, § 23; Laws 1996, LB 464, § 8. Operative date January 1, 1997.

**37-1224. Motorboat; removed from the state or transferred; registration fee; claim for refund; how computed.** When the owner of any vessel registered under the State Boat Act moves out of the state or upon the transfer of ownership of any vessel, such owner or transferor shall be credited with the number of unexpired months remaining in the registration

period. If such vessel is removed from the state or transferred within the same calendar month in which it was registered, no refund shall be allowed for such month. Any individual moving out of the state or transferring ownership to any vessel may file a claim for refund with the commission upon forms provided by the commission. The commission shall make payment to the claimant from money available from the State Game Fund appropriated for such purpose, but no refund shall be paid if less than twelve months remains in the registration period.

Source: Laws 1978, LB 21, § 24; Laws 1999, LB 176, § 112. Operative date May 28, 1999.

**37-1225. United States Government vessel identification numbering system; effect.** In the event that an agency of the United States Government shall have in force an overall system of identification numbering for vessels within the United States, the commission may by rules and regulations adopt such numbering system as the numbering system pursuant to the State Boat Act.

Source: Laws 1978, LB 21, § 25; Laws 1999, LB 176, § 113. Operative date May 28, 1999.

**37-1226. Motorboat; certificate of number and number awarded; period valid; renewal; fee.** (1) Every certificate of number and number awarded pursuant to the State Boat Act shall continue in full force and effect for a period of three years unless sooner terminated or discontinued. The numbering periods shall commence January 1 of each year and expire on December 31 of every three-year numbering period thereafter.

(2) Certificates of number and the number awarded may be renewed by the owner by presenting the previously issued certificate of number to the county treasurer or designated county official or an agent authorized to issue renewals. An owner whose registration has expired shall have until March 1 following the year of expiration to renew such registration.

(3) The fee for renewal shall be the same as for original registration as provided in section 37-1214.

Source: Laws 1978, LB 21, § 26; Laws 1994, LB 123, § 19; Laws 1996, LB 464, § 9; Laws 1999, LB 176, § 114. Operative date August 28, 1999.

**37-1227. Certificate of number; lost or destroyed; replacement; fee.** In the event of loss or destruction of the certificate of number, the owner of the vessel shall apply to the county treasurer or designated county official on forms provided by the commission for replacement of such lost certificate of number. Upon satisfactory proof of loss and the payment to the county treasurer or designated county official of a fee of not less than one dollar and not more than five dollars, as established by the commission, the county treasurer or designated county official shall issue a duplicate certificate of number.

Source: Laws 1978, LB 21, § 27; Laws 1993, LB 235, § 38; Laws 1996, LB 464, § 10; Laws 1998, LB 922, § 399; Laws 2001, LB 131, § 3. Effective date September 1, 2001.

**37-1228. Certificate of number; contents.** Every certificate of number shall contain the following information: Name and address of the owner, classification number or letter as classified by the commission, length, type of construction, material used in the boat, whether inboard or outboard motor power, type of fuel, make, and the hull identification number.

Source: Laws 1978, LB 21, § 28; Laws 1999, LB 176, § 115; Laws 2001, LB 131, § 4. Effective date September 1, 2001.

**37-1229. Motorboat; transfer, theft, recovery, destruction, or abandonment; notice to commission; certificate; terminated or declared invalid; when.** (1) The owner of any vessel shall furnish the commission notice of the transfer of all or any part of his interest, other than the creation of a security interest, in a vessel numbered in this state pursuant to sections 37-1214 to 37-1217 or of the theft, recovery, destruction, or abandonment of such vessel, within fifteen days thereof. Such transfer, theft, destruction, or abandonment shall terminate the certificate of number and number awarded for such vessel except that in the case of a transfer of a part interest which does not affect the owner's right to operate such vessel, such transfer shall not terminate the certificate of number and number awarded.

(2) The certificate of number shall be declared invalid when (a) the vessel is required to be documented, (b) the certificate of number was obtained falsely, (c) the necessary fees were not paid, or (d) the person whose name appears on the certificate involuntarily loses his interest in the numbered vessel by legal processes.

Source: Laws 1978, LB 21, §29.

**37-1230. Certificate of number; change of address; notice to commission.** Any holder of a certificate of number shall notify the commission within fifteen days if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the commission with his new address. The commission shall provide in its rules and regulations for the alteration of an outstanding certificate to show the new address of the holder.

Source: Laws 1978, LB 21, §30.

**37-1231. Number other than number awarded attached to bow; prohibited.** No number other than the number awarded to a vessel or granted reciprocity pursuant to the State Boat Act shall be attached on either side of the bow of such vessel.

Source: Laws 1978, LB 21, § 31; Laws 1999, LB 176, § 116. Operative date May 28, 1999.

**37-1232. Vessel; carry and exhibit lights; when.** Every vessel in all weather from sunset to sunrise shall carry and exhibit the lights prescribed by sections 37-1233 to 37-1238 when underway, and during such time no other lights which may be mistaken for those prescribed shall be exhibited.

Source: Laws 1978, LB 21, §32.

**37-1233. Class 1 and 2 motorboats; lights required; enumerated.** Under the conditions described in section 37-1232, every vessel of Classes 1 and 2 propelled by machinery shall carry the following lights:

(1) A lantern or flashlight;

(2) A combined lantern in the forepart of the vessel and lower than the white light aft, showing green to starboard and red to port side, each showing an unbroken light over an arc of the horizon of one hundred twelve and five-tenths degrees and so fixed as to show the light from right ahead to twenty-two and five-tenths degrees abaft the beam on its respective side; and

(3) A white light aft which shall show all around the horizon.

Source: Laws 1978, LB 21, §33; Laws 1989, LB 169, §1.

**37-1234. Class 3 and 4 motorboats; lights required; enumerated.** Under the conditions described in section 37-1232, every vessel of Classes 3 and 4 propelled by machinery shall carry the following lights:

(1) A lantern or flashlight;

(2) A white light placed over the fore and the aft centerline of the vessel showing an unbroken light over an arc of the horizon of two hundred twenty-five degrees and so fixed as to show the light from right ahead to twenty-two and five-tenths degrees abaft the beam on either side of the vessel;

(3) A white light aft to show all around the horizon and higher than the white light forward; and

(4) On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon one hundred twelve and five-tenths degrees, so fixed as to throw the light from right ahead to twenty-two and five-tenths degrees abaft the beam on the starboard side. On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of one hundred twelve and five-tenths degrees, so fixed as to throw the light from right ahead to twenty-two and five-tenths degrees abaft the beam on the port side. Such side lights shall be fitted with inboard screen of sufficient height so set as to prevent these lights from being seen across the bow.

Source: Laws 1978, LB 21, §34; Laws 1989, LB 169, §2.

**37-1235. Vessels propelled by sail or hand power; lights required.** (1) Under the conditions described in section 37-1232, all vessels when propelled by sail alone shall carry (a) a lantern or flashlight and (b) the red and green side lights suitably screened, but not the white lights, prescribed by sections 37-1233 and 37-1234. Vessels of all classes when so propelled shall carry a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of one hundred thirty-five degrees and so fixed as to show the light sixty-seven and five-tenths degrees from right aft on each side of the vessel.

(2) Rowboats and canoes or other vessels under hand power shall display a white light showing an unbroken light over an arc of the horizon of three hundred sixty degrees in time to avoid collision.

Source: Laws 1978, LB 21, §35; Laws 1989, LB 169, §3.

**37-1236. Lights; visibility requirements.** Every white light prescribed by sections 37-1233 to 37-1235 shall be of such character as to be visible at a distance of at least two miles. Every colored light prescribed by sections 37-1233 to 37-1235 shall be of such character as to be visible at a distance of at least one mile. The word visible in this section, when applied to lights, shall mean visible on a dark night with clear atmosphere.

Source: Laws 1978, LB 21, §36.

**37-1237. Vessel propelled by sail and machinery; lights required.** Under the conditions prescribed in section 37-1232 and when propelled by sail and machinery, any vessel shall carry the lights required for a vessel propelled by machinery only.

Source: Laws 1978, LB 21, §37.

**37-1238. Lights required by federal rules; commission; option to adopt.** The commission may adopt and promulgate rules and regulations providing that any vessel may carry and exhibit the lights required by the Inland Navigational Rules Act of 1980, as amended, 33 U.S.C. 2001 et seq., in lieu of the lights required by sections 37-1232 to 37-1237.

Source: Laws 1978, LB 21, §38; Laws 1993, LB 235, §39.

**37-1238.01. Vessel equipped with red or blue light; limitation on operation.** No person other than a rescue squad member actually en route to, at, or returning from any emergency requiring the services of such member or any law enforcement officer in the performance of his or her official duties shall operate a vessel equipped with a rotating or flashing

red or blue light or lights upon the waters of this state.

Source: Laws 1993, LB 235, §42.

**37-1238.02. Vessel signaled to stop; violation; penalty.** The operator of any vessel when signaled to stop either by hand signals or by the display of a rotating or flashing red or blue light or lights shall immediately bring such vessel to a stop or follow the directions given by any officer having the authority to enforce the State Boat Act. Violation of this section shall be a Class IV misdemeanor.

Source: Laws 1993, LB 235, §43.

**37-1239. Class 2, 3, or 4 vessel; sound-producing equipment required.** Every vessel of Class 2, 3, or 4 shall be provided with an efficient whistle or other sound-producing mechanical appliance.

Source: Laws 1978, LB 21, §39.

**37-1240. Class 3 or 4 vessel; bell required.** Every vessel of Class 3 or 4 shall be provided with an efficient bell.

Source: Laws 1978, LB 21, §40.

**37-1241. All vessels; floatation device; requirements; exceptions.** (1) Every vessel except sailboards shall carry at least one life preserver, ring buoy, or other device of the sort prescribed by the regulations of the commission for each person on board, so placed as to be readily accessible, except that every vessel carrying passengers for hire shall carry so placed as to be readily accessible at least one life preserver of the sort prescribed by the regulations of the commission for each person on board. Every vessel except canoes, kayaks, sailboards, and personal watercraft shall carry at least one throwable floatation device which shall be in addition to the devices required for each person on board.

(2) Subsection (1) of this section shall not apply to any racing shell or rowing scull during an authorized race or regatta or an officially supervised training session if at least one approved floatation device is carried aboard an accompanying vessel for each person in such racing shell or rowing scull. Such floatation devices shall be in addition to those required for each person aboard the accompanying vessel.

(3) For purposes of this section, sailboard means a surfboard-type vessel with no freeboard and using a free-sail system with a swivel-mounted mast not secured to a hull by guys or stays.

Source: Laws 1978, LB 21, § 41; Laws 1993, LB 235, § 40; Laws 1999, LB 176, § 117. Operative date May 28, 1999.

**37-1241.01. Personal watercraft; applicability of laws, rules, and regulations.** Except as provided in sections 37-1241.01 to 37-1241.08, a personal watercraft shall be subject to all applicable laws, rules, and regulations which govern the operation, equipment, registration, and numbering of and all other matters relating to vessels whenever a personal watercraft is operated on the waters of this state.

Source: Laws 1999, LB 176, § 102. Operative date May 28, 1999.

**37-1241.02. Personal watercraft; operation requirements.** (1) A personal watercraft may not be operated on the waters of this state unless each person aboard the personal watercraft is wearing a Type I, Type II, Type III, or Type V United States Coast Guard-approved floatation device. (2) Each person operating a personal watercraft on the waters of this state which is equipped by the manufacturer with a lanyard-type engine cutoff switch shall attach the lanyard to the operator's person, clothing, or floatation device as appropriate.

Source: Laws 1999, LB 176, § 103. Operative date May 28, 1999.

**37-1241.03. Personal watercraft; time restrictions.** A person shall not operate a personal watercraft on the waters of this state during the period from sunset to sunrise.

Source: Laws 1999, LB 176, § 104; Laws 2001, LB 131, § 5. Effective date September 1, 2001.

**37-1241.04. Personal watercraft; manner of operation.** (1) A person shall operate a personal watercraft on the waters of this state in a reasonable and prudent manner. A maneuver which unreasonably or unnecessarily endangers life, limb, or property is prohibited and includes weaving through congested vessel traffic, jumping the wake produced by another vessel at a distance of less than fifty yards, or jumping the wake produced by a motorboat or personal watercraft that is towing a person or persons.

(2) A person shall not operate a personal watercraft on the waters of this state unless he or she is facing forward on the watercraft.

Source: Laws 1999, LB 176, § 105; Laws 2003, LB 305, § 21. Operative date June 1, 2003.

**37-1241.05. Personal watercraft; towing; when permitted.** A person shall not operate a personal watercraft on the waters of this state to tow a person on water skis, kneeboards, inflatable crafts, or any other device unless the personal watercraft is designed to accommodate more than one person and the personal watercraft is recommended by the

manufacturer to tow such devices.

Source: Laws 1999, LB 176, § 106. Operative date May 28, 1999.

**37-1241.06. Personal watercraft; age restrictions; boating safety course; fee.** (1)(a) No person under fourteen years of age shall operate a motorboat or personal watercraft on the waters of this state.

(b) No person under sixteen years of age shall operate a motorboat or personal watercraft on the waters of this state with an individual in tow behind the motorboat or personal watercraft.

(2) Effective May 1, 2000, and until January 1, 2004, a person under sixteen years of age shall not operate a motorboat or personal watercraft on the waters of this state unless he or she has successfully completed a boating safety course approved by the commission and has been issued a valid boating safety certificate.

(3) Effective January 1, 2004, a person under eighteen years of age shall not operate a motorboat or personal watercraft on the waters of this state unless he or she has successfully completed a boating safety course approved by the commission and has been issued a valid boating certificate.

(4) The commission may charge a fee of no more than ten dollars for a boating safety course required by this section.

Source: Laws 1999, LB 176, § 107; Laws 2003, LB 305, § 22. Operative date May 14, 2003.

**37-1241.07. Motorboat or personal watercraft; age restriction on lease, hire, or rental; restriction on operation.**

The owner of a boat livery, or his or her agent or employee, shall not lease, hire, or rent a motorboat or personal watercraft to any person under eighteen years of age.

Except as provided in subdivision (1)(a) of section 37-1241.06, a person younger than eighteen years of age may operate a motorboat or personal watercraft rented, leased, or hired by a person eighteen years of age or older if the person younger than eighteen years of age holds a valid boating safety certificate issued under section 37-1241.06.

Source: Laws 1999, LB 176, § 108; Laws 2003, LB 305, § 23; Laws 2005, LB 21, § 1. Effective date March 10, 2005.

**37-1241.08. Personal watercraft; sections; applicability.** Sections 37-1204.01 and 37-1241.01 to 37-1241.07 shall not apply to a person participating in a regatta, race, marine parade, tournament, or exhibition which has been authorized or permitted by the commission pursuant to sections 37-1262 and 37-1263 or is otherwise exempt from the provisions of the State Boat Act.

Source: Laws 1999, LB 176, § 109. Operative date May 28, 1999.

**37-1242. Motorboat; fire extinguishers required.** Every motorboat shall be provided with such number, size, and type of fire extinguishers, capable of promptly and effectually extinguishing burning gasoline, as may be prescribed by the regulations of the commission, which fire extinguishers shall be at all times kept in condition for immediate and effective use and shall be so placed as to be readily accessible.

Source: Laws 1978, LB 21, § 42.

**37-1243. Racing vessels; equipment, exceptions; when.** The provisions of sections 37-1239, 37-1240, and 37-1242 shall not apply to vessels while competing in any race conducted pursuant to sections 37-1262 and 37-1263 or, if such boats be designed and intended solely for racing, while engaged in such navigation as is incidental to the tuning up of the boats and engines for the race.

Source: Laws 1978, LB 21, § 43.

**37-1244. Motorboat; engine equipped with flame arrester or similar device; exception.** Every motorboat shall have the carburetor or carburetors of every engine therein, except outboard motors, using gasoline as fuel, equipped with such efficient flame arrester, backfire trap, or other similar device as may be prescribed by the regulations of the commission.

Source: Laws 1978, LB 21, § 44.

**37-1245. Motorboat; proper ventilation of bilges required.** Every motorboat and every vessel, except open boats, using as fuel any liquid of a volatile nature, shall be provided with such means as may be prescribed by the regulations of the commission for properly and efficiently ventilating the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.

Source: Laws 1978, LB 21, § 45.

**37-1246. Federal boating laws or coast guard regulations; equipment requirements; commission; option to adopt.** The commission may adopt rules and regulations modifying the equipment requirements contained in sections 37-1232 to 37-1245 to the extent necessary to keep these requirements in conformity with the provisions of the federal boating laws or with the boating regulations promulgated by the United States Coast Guard.

Source: Laws 1978, LB 21, § 46.

**37-1247. Federal boating laws or coast guard regulations; pilot rules; commission; option to adopt.** The commission is hereby authorized to establish and maintain, for the operation of vessels on the waters of this state, pilot rules in conformity with the pilot rules contained in the federal boating laws or the boating regulations promulgated by the United States Coast Guard.

Source: Laws 1978, LB 21, §46.

**37-1248. Operation of a vessel without required equipment; prohibited.** No person shall operate or give permission for the operation of a vessel which is not equipped as required by the State Boat Act.

Source: Laws 1978, LB 21, § 48; Laws 1999, LB 176, § 118. Operative date May 28, 1999.

**37-1249. Vessels; exemption from numbering.** A vessel shall not be required to be numbered pursuant to the State Boat Act if it is:

(1) Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally approved numbering system of another state and if such boat has not been within this state for a period in excess of sixty consecutive days;

(2) A vessel from a country other than the United States temporarily using the waters of this state;

(3) A vessel whose owner is the United States, a state, or a subdivision thereof; or

(4) A ship's lifeboat.

Source: Laws 1978, LB 21, § 49; Laws 1999, LB 176, § 119. Operative date May 28, 1999.

**37-1250. Vessel; exempt from numbering by commission rule and regulation.** The commission may by rule and regulation exempt a vessel from numbering under the State Boat Act after the commission has found that the numbering of certain vessels will not materially aid in their safety and identification.

Source: Laws 1978, LB 21, § 50; Laws 1999, LB 176, § 120. Operative date May 28, 1999.

**37-1251. Boat livery; records required.** The owner of a boat livery shall cause to be kept a record of the name and address of the person or persons hiring any vessel which is designed or permitted by him to be operated as a motorboat, the certificate of number thereof, the departure date and time, and the expected time of return. The record shall be preserved for at least six months.

Source: Laws 1978, LB 21, §51.

**37-1252. Boat livery; vessel operated without required equipment; prohibited.** Neither the owner of a boat livery, nor his agent or employee shall permit any motorboat or any vessel designed or permitted by him to be operated as a motorboat to depart from his premises unless it shall have been provided, either by owner or renter, with the equipment required pursuant to sections 37-1232 to 37-1248 and any rules and regulations made pursuant thereto.

Source: Laws 1978, LB 21, §52.

**37-1253. Motorboat; noise level; restriction; muffling equipment; requirements.** (1) No person shall operate or give permission for the operation of a motorboat on the waters of this state in such a manner as to exceed a noise level of ninety-six decibels when measured at one hundred feet or more on plane using the A-weighting network of a sound level meter complying with the standards set forth in S1.4-1983 (R 2001) of the American National Standards Institute, as those standards existed on August 31, 2003.

(2) The exhaust of every internal combustion engine used on any motorboat shall be effectively muffled by equipment so constructed and used as to muffle the noise of the exhaust in a reasonable manner.

The use of cutouts is prohibited except for motorboats competing in a regatta or boat race approved as provided in sections 37-1262 and 37-1263, and for such motorboats while on trial runs, during a period not to exceed forty-eight hours immediately preceding such regatta or race and for such motorboats while competing in official trials for speed records during a period not to exceed forty-eight hours immediately following such regatta or race.

Source: Laws 1978, LB 21, § 53; Laws 2003, LB 305, § 24. Operative date August 31, 2003.

**37-1254. Prohibited operation; reckless or negligent; proof.** No person shall operate any motorboat or vessel or manipulate any water skis, surfboard, or similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person.

Source: Laws 1978, LB 21, §54; Laws 1989, LB 195, §2.

**37-1254.01. Boating under influence of alcohol or controlled substance; penalty; probation; prohibit operation; city or village ordinances; alcoholism treatment program.** (1) No person shall be in the actual physical control of any motorboat under propulsion upon the waters of this state:

(a) While under the influence of alcohol or of any controlled substance as defined in section 28-401;

(b) When such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood; or

(c) When such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath.

(2) Any person who is in the actual physical control of any motorboat under propulsion upon the waters of this state while in a condition described in subsection (1) of this section shall be guilty of a Class II misdemeanor. Upon conviction the court shall, as part of the judgment of conviction, order such person not to be in the physical control of a motorboat under propulsion upon the waters of this state for any purpose for a period of six months from the date of such conviction, except that if the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to be in the physical control of any motorboat under propulsion upon the waters of this state for any purpose for a period of sixty days from the date of the order.

(3) Any city or village may enact ordinances in conformance with this section and section 37-1254.02.

(4) At the discretion of the court, any person convicted of violating this section or violating any city or village ordinance adopted in conformance with this section may be required to attend, at the convicted person's expense, an alcoholism treatment program as a term of probation.

Source: Laws 1989, LB 195, § 3; Laws 2001, LB 166, § 1; Laws 2001, LB 773, § 7. Effective date September 1, 2001.

**37-1254.02. Boating under influence of alcohol or controlled substance; implied consent to submit to chemical test; preliminary test; refusal; penalty.** (1) Any person who has in his or her actual physical control a motorboat under propulsion upon the waters of this state shall be deemed to have given his or her consent to submit to a chemical test of his or her blood or breath for the purpose of determining the amount of alcohol content in such blood or breath.

(2) Any law enforcement officer who has been duly authorized to make arrests for violations of laws of this state or ordinances of any city or village may require any person arrested for any offense arising out of acts alleged to have been committed while the person was in the actual physical control of a motorboat under propulsion upon the waters of this state under the influence of alcohol to submit to a chemical test of his or her blood or breath for the purpose of determining the alcohol content of such blood or breath when the officer has reasonable grounds to believe that the person was in the actual physical control of a motorboat under propulsion upon the waters of this state while under the influence of alcohol.

(3) Any law enforcement officer who has been duly authorized to make arrests for violations of laws of this state or ordinances of any city or village may require any person who has in his or her actual physical control a motorboat under propulsion upon the waters of this state to submit to a preliminary test of his or her breath for alcohol content if the officer has reasonable grounds to believe that such person has alcohol in his or her body or has committed any violation of this section and section 37-1254.01. Any person who refuses to submit to such preliminary breath test or whose preliminary breath test results indicate an alcohol content of eight-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath shall be placed under arrest. Any person who refuses to submit to such preliminary breath test shall be guilty of a Class III misdemeanor.

(4) Any person arrested pursuant to this section may, upon the direction of a law enforcement officer, be required to submit to a chemical test of his or her blood or breath for a determination of the alcohol content. Any person who refuses to submit to a chemical blood or breath test required pursuant to this section shall be guilty of a Class II misdemeanor, and the court shall, as part of the judgment of conviction, order such person not to be in the actual physical control of any motorboat under propulsion upon the waters of this state for any purpose for a period of six months from the date of such conviction. If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to be in the actual physical control of any motorboat under propulsion upon the waters of this state for any purpose for a period of sixty days from the date of the order.

(5) Any person who is required to submit to a preliminary breath test or to a chemical blood or breath test pursuant to this section shall be advised of the consequences of refusing to submit to such test.

Source: Laws 1989, LB 195, § 4; Laws 1999, LB 176, § 121; Laws 2001, LB 166, § 2; Laws 2001, LB 773, § 8. Effective date September 1, 2001.

**37-1254.03. Boating under influence of alcohol or controlled substance; choice of test; privileges of person tested.** The law enforcement officer who requires a chemical blood or breath test pursuant to section 37-1254.02 may direct whether the test shall be of blood or breath. When the officer directs that the test shall be of a person's blood, the person tested shall be permitted to have a physician of his or her choice evaluate his or her condition and perform or have performed whatever laboratory tests such person tested deems appropriate in addition to and following the test administered at the direction of the law enforcement officer. If the officer refuses to permit such additional test to be taken, then the original test shall not be competent as evidence. Upon request the results of the test taken at the direction of the law enforcement officer shall be made available to the person being tested.

Source: Laws 1989, LB 195, § 5; Laws 2001, LB 773, § 9. Effective date September 1, 2001.

**37-1254.04. Boating under influence of alcohol or controlled substance; unconscious; effect on consent.** Any person

who is unconscious or who is otherwise in a condition rendering him or her incapable of refusal shall be deemed not to have withdrawn the consent provided by section 37-1254.02, and the test may be given.

Source: Laws 1989, LB 195, §6.

**37-1254.05. Boating under influence of alcohol or controlled substance; chemical test; violation of statute or ordinance; results; competent evidence; permit; fee.** Except as provided in section 37-1254.03, any test made pursuant to section 37-1254.02, if made in conformance with the requirements of this section, shall be competent evidence in any prosecution under a state law or city or village ordinance regarding the actual physical control of any motorboat under propulsion upon the waters of this state while under the influence of alcohol or regarding the actual physical control of any motorboat under propulsion upon the waters of this state when the concentration of alcohol in the blood or breath is in excess of allowable levels in violation of section 37-1254.01 or a city or village ordinance. To be considered valid, tests shall have been performed according to methods approved by the Department of Health and Human Services Regulation and Licensure and by an individual possessing a valid permit issued by the department for such purpose. The department may approve satisfactory techniques or methods and ascertain the qualifications and competence of individuals to perform such tests and may issue permits which shall be subject to termination or revocation at the discretion of the department.

The permit fee may be established by rules and regulations adopted and promulgated by the department, which fee shall not exceed the actual cost of processing the initial permit. Such fee shall be charged annually to each permitholder. The fees shall be used to defray the cost of processing and issuing the permits and other expenses incurred by the department in carrying out this section. The fee shall be deposited in the state treasury and credited to the Department of Health and Human Services Regulation and Licensure Cash Fund as a laboratory service fee.

Source: Laws 1989, LB 195, § 7; Laws 1996, LB 1044, § 95; Laws 2001, LB 773, § 10. Effective date September 1, 2001.

**37-1254.06. Boating under influence of alcohol or controlled substance; blood test; withdrawing requirements; damages; liability.** (1) Any physician, registered nurse, other trained person employed by a licensed health care facility or health care service defined in the Health Care Facility Licensure Act, a clinical laboratory certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII or XIX of the federal Social Security Act, as amended, to withdraw human blood for scientific or medical purposes, or a hospital shall be an agent of the State of Nebraska when performing the act of withdrawing blood at the request of a peace officer pursuant to section 37-1254.02. The state shall be liable in damages for any illegal or negligent acts or omissions of such agents in performing the act of withdrawing blood. The agent shall not be individually liable in damages or otherwise for any act done or omitted in performing the act of withdrawing blood at the request of a peace officer pursuant to such section except for acts of willful, wanton, or gross negligence of the agent or of persons employed by such agent.

(2) Any person listed in subsection (1) of this section withdrawing a blood specimen for purposes of section 37-1254.02 shall, upon request, furnish to any law enforcement agency or the person being tested a certificate stating that such specimen was taken in a medically acceptable manner. The certificate shall be signed under oath before a notary public and shall be admissible in any proceeding as evidence of the statements contained in the certificate. The form of the certificate shall be prescribed by the Department of Health and Human Services Regulation and Licensure and such forms shall be made available to the persons listed in subsection (1) of this section.

Source: Laws 1989, LB 195, § 8; Laws 1997, LB 210, § 1; Laws 2000, LB 819, § 67; Laws 2000, LB 1115, § 3. Note: The changes made by LB 1115 became effective April 14, 2000. The changes made by LB 819 became operative January 1, 2001.

**37-1254.07. Boating under influence of alcohol or controlled substance; violation of city or village ordinance; fee for test; court costs.** Upon the conviction of any person for violation of section 37-1254.01 or for being in actual physical control of a motorboat under propulsion upon the waters of this state while under the influence of alcohol or of any controlled substance as defined in section 28-401 in violation of any city or village ordinance, there shall be assessed as part of the court costs the fee charged by any physician or any agency administering tests, pursuant to a permit issued in accordance with section 37-1254.05, for the test administered and the analysis thereof pursuant to section 37-1254.02 if such test was actually made.

Source: Laws 1989, LB 195, §9.

**37-1254.08. Boating under influence of alcohol or controlled substance; test without preliminary breath test; when; qualified personnel.** Any person arrested for any offense involving the actual physical control of a motorboat under propulsion upon the waters of this state while under the influence of alcohol shall be required to submit to a chemical test of his or her blood or breath as provided in section 37-1254.02 without the preliminary breath test if the arresting officer does not have available the necessary equipment for administering a breath test or if the person is unconscious or is otherwise in a condition rendering him or her incapable of testing by a preliminary breath test. Only a physician, registered nurse, or qualified technician acting at the request of a law enforcement officer may withdraw blood for the purpose of determining its



alcohol content, but such limitation shall not apply to the taking of a breath specimen.

Source: Laws 1989, LB 195, § 10; Laws 2001, LB 773, § 11. Effective date September 1, 2001.

**37-1255. Collisions, accidents, and casualties; operator of vessel; duties.** It shall be the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as he can do so without serious danger to his own vessel, crew, and passengers, if any, to render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident, or other casualty, and also to give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

Source: Laws 1978, LB 21, §55.

**37-1256. Collision, accident, or other casualty; commission; Nebraska State Patrol; duties.** (1) In the case of collision, accident, or other casualty involving a vessel, the operator thereof, if the collision, accident, or other casualty results in death, a missing person, or injury to a person or damage to property in excess of five hundred dollars, shall file with the commission a full description of the collision, accident, or other casualty, including such information and within such time limit as the commission may by regulation require.

(2) The commission or any other law enforcement agency shall notify the Nebraska State Patrol as soon as practicable in any cases of collision, accident, or other casualty involving a vessel, when the collision, accident, or other casualty results in death, a missing person, or life-threatening injury to a person.

(3) The Nebraska State Patrol shall collaborate with the commission or any other law enforcement agency in any investigations pursuant to this section.

Source: Laws 1978, LB 21, § 56; Laws 2001, LB 131, § 6; Laws 2003, LB 305, § 25. Operative date June 1, 2003.

**37-1257. Transmittal of information; when.** In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the commission pursuant to sections 37-1255 and 37-1256 shall be transmitted to such official or agency of the United States.

Source: Laws 1978, LB 21, §57.

**37-1258. Water skis, surfboard, or similar device; observation required.** No person shall operate a vessel on any waters of this state for towing a person or persons on water skis, surfboard, or similar device unless there is in such vessel a person, in addition to the operator, in a position to observe the progress of the person or persons being towed, except that this section shall not apply to any motorboat equipped with a wide-angle, rearview mirror.

Source: Laws 1978, LB 21, §58.

**37-1259. Water skis, aquaplane, or similar device; operation; time restrictions.** No motorboat shall have in tow or shall otherwise be assisting a person on water skis, aquaplane, or a similar contrivance from the period of one-half hour after sunset to one-half hour prior to sunrise, except that this section shall not apply to motorboats used in duly authorized water ski tournaments, competitions, or exhibitions or trials therefor when adequate lighting is provided.

Source: Laws 1978, LB 21, §59; Laws 1993, LB 235, §41.

**37-1260. Water skis, aquaplane, or similar device; manner of operation.** All motorboats having in tow or otherwise assisting a person on water skis, aquaplane, or similar contrivance, shall be operated in a careful and prudent manner and at a reasonable distance from persons and property so as not to endanger the life or property of any person.

Source: Laws 1978, LB 21, §60.

**37-1261. Water skis, aquaplane, or similar device; collision; operation to avoid.** No person shall operate or manipulate any vessel, tow rope, or other device by which the direction or location of water skis, aquaplane, or similar device may be affected or controlled in such a way as to cause the water skis, aquaplane, or similar device, or any persons thereon to collide with or strike against any person or object, except ski jumps, buoys, and like objects normally used in competitive or recreational skiing.

Source: Laws 1978, LB 21, §61.

**37-1262. Races and exhibitions; commission authorization.** The commission may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments, or exhibitions on any waters of this state. It shall adopt and may, from time to time, amend regulations concerning the safety of motorboats and other vessels and persons thereon, either observers or participants.

Source: Laws 1978, LB 21, §62.

**37-1263. Races and exhibitions; application; when; contents.** Whenever a regatta, motorboat or other boat race,

marine parade, tournament, or exhibition is proposed to be held, the person in charge thereof shall, at least fifteen days prior thereto, file an application with the commission for permission to hold such regatta, motorboat or other boat race, marine parade, tournament, or exhibition. The application shall set forth the date, time, and location where it is proposed to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition, and it shall not be conducted without authorization of the commission in writing. The provisions of this section shall not exempt any person from compliance with applicable federal law or regulations.

Source: Laws 1978, LB 21, §63.

**37-1264. Local regulation; extent permitted.** The provisions of the State Boat Act and of other applicable laws of this state shall govern the operation, equipment, numbering, and all other matters relating thereto whenever any vessel shall be operated on the waters of this state or when any activity regulated by the act shall take place thereon; but nothing in the act shall be construed to prevent the adoption of any ordinance or local law relating to operation and equipment of vessels the provisions of which are identical to the provisions of the act or rules or regulations issued thereunder, but such ordinances or local laws shall be operative only so long as and to the extent that they continue to be identical to provisions of the State Boat Act or rules or regulations issued thereunder.

Source: Laws 1978, LB 21, § 64; Laws 1999, LB 176, § 122. Operative date May 28, 1999.

**37-1265. Local regulation; special rules and regulations.** Any subdivision of this state may at any time, but only after public notice, make formal application to the commission for special rules and regulations with reference to the operation of vessels on any waters within its territorial limits and shall set forth therein the reasons which make such special rules or regulations necessary or appropriate.

Source: Laws 1978, LB 21, §65.

**37-1266. Commission; special rules and regulations.** The commission is hereby authorized to make special rules and regulations with reference to the operation of vessels, including waterskiing and other related activities, on any specific water or waters within the territorial limits of this state.

Source: Laws 1978, LB 21, §66.

**37-1267. Civil liability of owner; recovery limited to actual damages.** The owner of a vessel shall be liable for any injury or damage occasioned by the negligent operation of such vessel, whether such negligence consists of a violation of the provisions of the statutes of this state or neglecting to observe such ordinary care and such operation as the rules of the common law require. The owner shall not be liable unless such vessel is being used with his or her express or implied consent. It shall be presumed that such vessel is being operated with the knowledge and consent of the owner, if at the time of the injury or damage, it is under the control of his or her spouse, father, mother, brother, sister, son, daughter, or other immediate member of the owner's family. Nothing contained in this section shall be construed to relieve any other person from any liability which he would otherwise have, but nothing contained in this section shall be construed to authorize or permit any recovery in excess of injury or damage actually incurred.

Source: Laws 1978, LB 21, §67.

**37-1268. Commission; promulgate rules and regulations.** The commission shall adopt and promulgate such rules and regulations as are necessary to carry out the State Boat Act. In adopting such rules and regulations, the commission shall be governed by the provisions of the Administrative Procedure Act.

Source: Laws 1978, LB 21, § 68; Laws 1999, LB 176, § 123. Operative date May 28, 1999.

**37-1269. Conservation and peace officers; enforcement of act.** Every conservation officer and peace officer of this state and its subdivisions shall have the duty and authority to enforce the State Boat Act and in the exercise thereof shall have the authority to stop and board any vessel subject to the act.

Source: Laws 1978, LB 21, §69; Laws 1998, LB 922, §400. Effective date July 15, 1998.

**37-1270. Violations; general penalty.** Any person who violates any provisions of the State Boat Act, or any provisions of the rules and regulations established by the commission pursuant thereto, for which a penalty is not otherwise provided, shall be guilty of a Class V misdemeanor for each such violation.

Source: Laws 1978, LB 21, § 70; Laws 1999, LB 176, § 124. Operative date May 28, 1999.

**37-1271. Violations; penalty.** Any person who violates any provision of sections 37-1241.02 to 37-1241.05, 37-1241.07, 37-1251, 37-1252, or 37-1258 to 37-1261 shall be guilty of a Class IV misdemeanor for each violation.

Source: Laws 1978, LB 21, § 71; Laws 1999, LB 176, § 125. Operative date May 28, 1999.

**37-1272. Operation of vessel in violation of law; penalty.** Any person who violates any provision of section 37-1254

shall be guilty of a Class II misdemeanor for each such violation.

Source: Laws 1978, LB 21, §72.

**37-1273. Fees; placed in State Game Fund; how used.** All fees as provided by the State Boat Act shall be remitted to the State Treasurer for credit to the State Game Fund to be used primarily for (1) administration and enforcement of the State Boat Act, (2) boating safety educational programs, (3) the construction and maintenance of boating and docking facilities, navigation aids, and access to boating areas and such other uses as will promote the safety and convenience of the boating public in Nebraska, and (4) publishing costs subject to the restrictions and limitations in section 37-324. Secondary uses for the fees shall be for the propagation, importation, protection, preservation, and distribution of game and fish and necessary equipment therefor and all things pertaining thereto.

Source: Laws 1978, LB 21, § 73; Laws 1987, LB 785, § 2; Laws 1998, LB 922, § 401; Laws 2003, LB 305, § 26.  
Operative date June 1, 2003.

**37-1274. Transferred to section 37-1291.**

**37-1275. Manufacturer's or importer's certificate; required.** No manufacturer, importer, dealer, or other person shall sell or otherwise dispose of a new motorboat to a dealer to be used by such dealer for purposes of display and resale without delivering to the dealer a duly executed manufacturer's or importer's certificate with assignments on the certificate to show title in the purchaser of the motorboat and affixing to the motorboat its hull identification number if not already affixed. No dealer shall purchase or acquire a new motorboat without obtaining from the seller a manufacturer's or importer's certificate.

Source: Laws 1994, LB 123, §3; Laws 1996, LB 464, §11. Operative date January 1, 1997.

**37-1276. Certificate of title; assignment required; exemption.** (1) Except as provided in subsection (2) of this section or section 37-1275, (a) no person shall sell or otherwise dispose of a motorboat without delivering to the purchaser or transferee of the motorboat a certificate of title with an assignment on the certificate to show title in the purchaser and affixing to the motorboat its hull identification number if not already affixed and (b) no person shall purchase or otherwise acquire or bring into this state a motorboat without complying with sections 37-1275 to 37-1287 except for temporary use.

(2) A motorboat manufactured before November 1, 1972, is exempt from the requirement to have a certificate of title. A motorboat owned by the United States, the State of Nebraska, or an agency or political subdivision of either is exempt from the requirement to have a certificate of title.

(3) No purchaser or transferee shall receive a certificate of title which does not contain an assignment to show title in the purchaser or transferee. Possession of a title which does not meet this requirement shall be prima facie evidence of a violation of this section.

Source: Laws 1994, LB 123, §4; Laws 1996, LB 464, §12; Laws 1997, LB 720, §3. Operative date March 27, 1997.

**37-1277. Acquisition of motorboat; requirements.** (1) Except as provided in subsections (2) and (3) of this section, no person acquiring a motorboat from the owner thereof, whether the owner is a manufacturer, importer, dealer, or otherwise, shall acquire any right, title, claim, or interest in or to such motorboat until he or she has physical possession of the motorboat and a certificate of title or a manufacturer's or importer's certificate with assignments on the certificate to show title in the purchaser or an instrument in writing required by section 37-1281. No waiver or estoppel shall operate in favor of such person against a person having physical possession of the motorboat and the certificate of title, the manufacturer's or importer's certificate, or an instrument in writing required by section 37-1281. No court in any case at law or in equity shall recognize the right, title, claim, or interest of any person in or to any motorboat sold, disposed of, mortgaged, or encumbered unless there is compliance with this section.

(2) A motorboat manufactured before November 1, 1972, is exempt from the requirement to have a certificate of title. If a person acquiring a motorboat which is exempt from the requirement to have a certificate of title desires to acquire a certificate of title for the motorboat, the person may apply for a certificate of title pursuant to section 37-1278.

(3) A motorboat owned by the United States, the State of Nebraska, or an agency or political subdivision of either is exempt from the requirement to have a certificate of title. A person other than an agency or political subdivision acquiring such a motorboat which is not covered under subsection (2) of this section shall apply for a certificate of title pursuant to section 37-1278. The person shall show proof of purchase from a governmental agency or political subdivision to obtain a certificate of title.

Source: Laws 1994, LB 123, §5; Laws 1996, LB 464, §13; Laws 1997, LB 720, §4. Operative date March 27, 1997.

**37-1278. Certificate of title; application; issuance; transfer of motorboat.** (1) Application for a certificate of title shall be presented to the county clerk or designated county official, shall be made upon a form prescribed by the Department of Motor Vehicles, and shall be accompanied by the fee prescribed in section 37-1287. The owner of a motorboat for which a certificate of title is required shall obtain a certificate of title prior to registration required under section 37-1214.

(2) If a certificate of title has previously been issued for the motorboat in this state, the application for a new certificate

of title shall be accompanied by the certificate of title duly assigned. If a certificate of title has not previously been issued for the motorboat in this state, the application shall be accompanied by a certificate of number from this state, a manufacturer's or importer's certificate, a duly certified copy thereof, proof of purchase from a governmental agency or political subdivision, a certificate of title from another state, or a court order issued by a court of record, a manufacturer's certificate of origin, or an assigned registration certificate, if the motorboat was brought into this state from a state which does not have a certificate of title law. The county clerk or designated county official shall retain the evidence of title presented by the applicant on which the certificate of title is issued. When the evidence of title presented by the applicant is a certificate of title or an assigned registration certificate issued by another state, the department shall notify the state of prior issuance that the certificate has been surrendered. If a certificate of title has not previously been issued for the motorboat in this state and the applicant is unable to provide such documentation, the applicant may apply for a bonded certificate of title as prescribed in section 37-1278.01.

(3) The county clerk or designated county official shall use reasonable diligence in ascertaining whether or not the statements in the application for a certificate of title are true by checking the application and documents accompanying the same with the records of motorboats in his or her office. If he or she is satisfied that the applicant is the owner of the motorboat and that the application is in the proper form, the county clerk or designated county official shall issue a certificate of title over his or her signature and sealed with his or her seal.

(4) In the case of the sale of a motorboat, the certificate of title shall be obtained in the name of the purchaser upon application signed by the purchaser, except that for titles to be held by husband and wife, applications may be accepted by the county clerk or designated county official upon the signature of either spouse as a signature for himself or herself and as an agent for his or her spouse.

(5) In all cases of transfers of motorboats, the application for a certificate of title shall be filed within thirty days after the delivery of the motorboat. A dealer need not apply for a certificate of title for a motorboat in stock or acquired for stock purposes, but upon transfer of a motorboat in stock or acquired for stock purposes, the dealer shall give the transferee a reassignment of the certificate of title on the motorboat or an assignment of a manufacturer's or importer's certificate. If all reassignments printed on the certificate of title have been used, the dealer shall obtain title in his or her name prior to any subsequent transfer.

(6) If a county board consolidates services under the office of a designated county official other than the county clerk pursuant to section 23-186, the powers and duties of the county clerk relating to motorboat titles under sections 37-1278 to 37-1289 shall be performed by the designated county official.

Source: Laws 1994, LB 123, § 6; Laws 1996, LB 464, § 14; Laws 1997, LB 635, § 14; Laws 1997, LB 720, § 5; Laws 2000, LB 1317, § 1. Operative date June 1, 2000.

**37-1278.01. Bonded certificate of title; requirements; fee.** (1) The Department of Motor Vehicles shall issue a bonded certificate of title to an applicant who:

(a) Presents evidence reasonably sufficient to satisfy the department of the applicant's ownership of the motorboat or security interest in the motorboat;

(b) Pays a fee of fifty dollars for motorboats manufactured on or after January 1, 1990, and twenty dollars for motorboats manufactured prior to January 1, 1990; and

(c) Files a bond in a form prescribed by the department and executed by the applicant.

(2) The bond shall be issued by a surety company authorized to transact business in this state, in an amount equal to one and one-half times the value of the motorboat as determined by the department using reasonable appraisal methods, and conditioned to indemnify any prior owner and secured party, any subsequent purchaser and secured party, and any successor of the purchaser and secured party for any expense, loss, or damage, including reasonable attorney's fees, incurred by reason of the issuance of the certificate of title to the motorboat or any defect in or undisclosed security interest upon the right, title, and interest of the applicant in and to the motorboat. An interested person may have a cause of action to recover on the bond for a breach of the conditions of the bond. The aggregate liability of the surety to all persons having a claim shall not exceed the amount of the bond.

(3) At the end of three years after the issuance of the bond, the holder of the certificate of title may apply to the department on a form prescribed by the department for the release of the bond and the removal of the notice required by subsection (4) of this section if no claim has been made on the bond. The department may release the bond at the end of three years after the issuance of the bond if all questions as to the ownership of the motorboat have been answered to the satisfaction of the department unless the department has been notified of the pendency of an action to recover on the bond. If the currently valid certificate of title is surrendered to the department, the department may release the bond prior to the end of the three-year period.

(4) The department shall include the following statement on a bonded certificate of title issued pursuant to this section and any subsequent title issued as a result of a title transfer while the bond is in effect:

NOTICE: THIS MOTORBOAT MAY BE SUBJECT TO AN UNDISCLOSED INTEREST, BOND NUMBER ..

(5) The department shall recall a bonded certificate of title if the department finds that the application for the title contained a false statement or if a check presented by the applicant for fees pursuant to this section is returned uncollected by

a financial institution.

(6) The department shall remit fees collected pursuant to this section to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 1996, LB 464, § 15; Laws 1997, LB 635, § 15; Laws 1997, LB 720, § 6; Laws 2000, LB 1317, § 2.

Operative date June 1, 2000.

**37-1279. Certificate of title; issuance; form; county clerk or designated county official; duties; filing.** (1) The county clerk or designated county official shall issue the certificate of title. One copy shall be retained by the county clerk or designated county official in his or her office, and the other copy shall be transmitted on the day of issuance to the Department of Motor Vehicles. The county clerk or designated county official shall sign and affix his or her seal to the original certificate of title and deliver the certificate to the applicant if there are no liens on the motorboat or deliver or mail the certificate to the holder of the first lien on the day of issuance if there are liens on the motorboat. The county clerk or designated county official shall keep on hand a sufficient supply of blank forms which shall be furnished and distributed without charge to manufacturers, dealers, or other persons residing within the county, except that certificates of title shall only be issued by the county clerk, designated county official, or the department. Each county shall issue and file certificates of title using the vehicle titling and registration computer system. The department shall use a portion of the fees appropriated from boat titling and credited to the Department of Motor Vehicles Cash Fund to pay for the costs of the boat titling system. The costs shall be limited to printers as deemed necessary by the department to support the issuance of boat titles by the counties.

(2) Each county clerk or designated county official of the various counties shall provide his or her seal without charge to the applicant on any certificate of title, application for certificate of title, duplicate copy, assignment or reassignment, power of attorney, statement, or affidavit pertaining to the issuance of a certificate of title. The department shall prescribe a uniform method of numbering certificates of title.

(3) The county clerk or designated county official shall (a) file all certificates of title according to rules and regulations of the department, (b) maintain in the office indices for such certificates of title, (c) be authorized to destroy all previous records five years after a subsequent transfer has been made on a motorboat, and (d) be authorized to destroy all certificates of title and all supporting records and documents which have been on file for a period of five years or more from the date of filing the certificate or a notation of lien, whichever occurs later. Any person holding a certificate of title to a motorboat may refile the same with the county clerk or designated county official to prevent destruction of the county clerk's or designated county official's records.

Source: Laws 1994, LB 123, §7; Laws 1996, LB 464, §16. Operative date January 1, 1997.

**37-1280. Department of Motor Vehicles; powers and duties; rules and regulations; cancellation of certificate of title.** The Department of Motor Vehicles shall adopt and promulgate rules and regulations necessary to carry out sections 37-1275 to 37-1290, and the county clerks or designated county officials shall conform to the rules and regulations and act at the direction of the department. The department shall also provide the county clerks or designated county officials with the necessary training for the proper administration of such sections. The department shall receive and file in its office all instruments forwarded to it by the county clerks or designated county officials under such sections and shall maintain indices covering the entire state for the instruments so filed. These indices shall be by hull identification number and alphabetically by the owner's name and shall be for the entire state and not for individual counties. The department shall provide and furnish the forms required by section 37-1286 to the county clerks or designated county officials except manufacturers' or importers' certificates. The department shall check with its records all duplicate certificates of title received from the county clerks or designated county officials. If it appears that a certificate of title has been improperly issued, the department shall cancel the certificate of title. Upon cancellation of any certificate of title, the department shall notify the county clerk or designated county official who issued the certificate, and the county clerk or designated county official shall enter the cancellation upon his or her records. The department shall also notify the person to whom such certificate of title was issued and any lienholders appearing on the certificate of the cancellation and shall demand the surrender of the certificate of title, but the cancellation shall not affect the validity of any lien noted on the certificate. The holder of the certificate of title shall return the certificate to the department immediately. If a certificate of number has been issued pursuant to section 37-1216 to the holder of a certificate of title so canceled, the department shall notify the commission. Upon receiving the notice, the commission shall immediately cancel the certificate of number and demand the return of the certificate of number and the holder of the certificate of number shall return the certificate to the commission immediately.

Source: Laws 1994, LB 123, §8; Laws 1996, LB 464, §17. Operative date January 1, 1997.

**37-1281. Motorboat sale; sale instrument; contents.** Every motorboat sale between a manufacturer or distributor shall be evidenced by an instrument in writing upon a form that may be promulgated by the Department of Motor Vehicles and approved by the Attorney General which shall contain all the agreements of the parties and shall be signed by the buyer and seller or a duly acknowledged agent of the seller. Prior to or concurrent with any such motorboat sale, the seller shall deliver to the buyer one instrument which shall contain the following information: (1) Name of seller; (2) name of buyer; (3) year of

model, manufacturer's name, hull identification number, and hull length; (4) cash sale price; (5) the amount of buyer's downpayment and whether made in money or goods or partly in money and partly in goods, including a brief description of any goods traded in; (6) the difference between subdivisions (4) and (5) of this section; (7) the amount included for insurance if a separate charge is made therefor, specifying the types of coverages; (8) the basic time-price, which is the sum of subdivisions (6) and (7) of this section; (9) the time-price differential; (10) the amount of the time-price balance, which is the sum of subdivisions (8) and (9) of this section payable in installments by the buyer to the seller; (11) the number, amount, and due date or period of each installment payment; (12) the time-sale price; (13) whether the sale is as is or subject to warranty and, if subject to warranty, specifying the warranty; and (14) if repairs or inspections arising out of the conduct of a dealer's business cannot be provided by the dealer in any representations or warranties that may arise, the instrument shall so state that fact and shall provide the purchaser with the location of a facility where such repairs or inspections can be accomplished as provided for in the service contract. A copy of all such instruments shall be retained in the file of the dealer for five years from the date of sale.

Source: Laws 1994, LB 123, §9. Operative date January 1, 1997.

**37-1282. Security interest; financing instruments; provisions applicable; priority; notation of liens; cancellation.**

(1) The provisions of article 9, Uniform Commercial Code, shall not be construed to apply to or to permit or require the deposit, filing, or other record whatsoever of a security agreement, conveyance intended to operate as a mortgage, trust receipt, conditional sales contract, or similar instrument or any copy of the same covering a motorboat. Any mortgage, conveyance intended to operate as a security agreement as provided by article 9, Uniform Commercial Code, trust receipt, conditional sales contract, or other similar instrument covering a motorboat, if such instrument is accompanied by delivery of such manufacturer's or importer's certificate and followed by actual and continued possession of same by the holder of the instrument or, in the case of a certificate of title, if a notation of same has been made by the county clerk, the designated county official, or the Department of Motor Vehicles on the face of the certificate, shall be valid as against the creditors of the debtor, whether armed with process or not, and subsequent purchasers, secured parties, and other lienholders or claimants, but otherwise shall not be valid against them, except that during any period in which a motorboat is inventory, as defined in section 9-102, Uniform Commercial Code, held for sale by a person or corporation that is in the business of selling motorboats, the filing provisions of article 9, Uniform Commercial Code, as applied to inventory shall apply to a security interest in the motorboat created by such person or corporation as debtor without the notation of lien on the instrument of title. A buyer at retail from a dealer of any motorboat in the ordinary course of business shall take the motorboat free of any security interest.

(2) All liens, security agreements, and encumbrances noted upon a certificate of title shall take priority according to the order of time in which the same are noted on the certificate by the county clerk, the designated county official, or the department. Exposure for sale of any motorboat by the owner thereof with the knowledge or with the knowledge and consent of the holder of any lien, security agreement, or encumbrance on the motorboat shall not render the same void or ineffective as against the creditors of the owner or holder of subsequent liens, security agreements, or encumbrances upon the motorboat.

(3) Upon presentation of a security agreement, trust receipt, conditional sales contract, or similar instrument to the county clerk or designated county official of the county where the certificate of title was issued or, if issued by the department, to the department together with the certificate of title and the fee prescribed by section 37-1287, the holder of such instrument may have a notation of the lien made on the face of the certificate of title. The county clerk, the designated county official, or the department shall enter the notation and the date thereof over the signature of the person making the notation and the seal of office and shall also note the lien and the date thereof on the duplicate of the certificate on file. The county clerk, the designated county official, or the department shall also indicate by appropriate notation and on such instrument itself the fact that the lien has been noted on the certificate of title.

(4) The county clerk, the designated county official, or the department, upon receipt of a lien instrument duly signed by the owner in the manner prescribed by law governing such lien instruments together with the fee prescribed for notation of lien, shall notify the first lienholder to deliver to the county clerk, the designated county official, or the department, within fifteen days from the date of notice, the certificate of title to permit notation of the junior lien and, after notation of the lien, the county clerk, the designated county official, or the department shall deliver the certificate of title to the first lienholder. The holder of a certificate of title who refuses to deliver a certificate of title to the county clerk, the designated county official, or the department for the purpose of showing a junior lien on the certificate of title within fifteen days from the date when notified to do so shall be liable for damages to the junior lienholder for the amount of damages the junior lienholder suffered by reason of the holder of the certificate of title refusing to permit the showing of the lien on the certificate of title.

(5) When the lien is discharged, the holder shall, within fifteen days after payment is received, note a cancellation of the lien on the face of the certificate of title over his, her, or its signature and deliver the certificate of title to the county clerk, the designated county official, or the department which shall note the cancellation of the lien on the face of the certificate of title and on the records of the office. If delivered to a county clerk or designated county official, he or she shall on that day notify the department which shall note the cancellation on its records. The county clerk, the designated county official, or the department shall then return the certificate of title to the owner or as otherwise directed by the owner. The cancellation of the lien shall be noted on the certificate of title without charge.

(6) Any exchange of information may be accomplished by the computerized exchange of information or by any other exchange of electrically, electronically, telephonically, or mechanically processed information.

Source: Laws 1994, LB 123, § 10; Laws 1996, LB 464, § 18; Laws 1999, LB 550, § 7. Operative date July 1, 2001.

**37-1283. New certificate; when issued; proof required; processing of application.** (1) In the event of the transfer of ownership of a motorboat by operation of law as upon inheritance, devise, or bequest, order in bankruptcy, insolvency, replevin, or execution sale, (2) whenever a motorboat is sold to satisfy storage or repair charges, or (3) whenever repossession is had upon default in performance of the terms of a chattel mortgage, trust receipt, conditional sales contract, or other like agreement, the county clerk or designated county official of the county in which the last certificate of title to the motorboat was issued or the Department of Motor Vehicles if the last certificate of title was issued by the department, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof of ownership and right of possession to the motorboat, and upon payment of the fee prescribed in section 37-1287 and the presentation of an application for certificate of title, may issue to the applicant a certificate of title thereto. If the prior certificate of title issued for the motorboat provided for joint ownership with right of survivorship, a new certificate of title shall be issued to a subsequent purchaser upon the assignment of the prior certificate of title by the surviving owner and presentation of satisfactory proof of death of the deceased owner. Only an affidavit by the person or agent of the person to whom possession of the motorboat has so passed, setting forth facts entitling him or her to such possession and ownership, together with a copy of the journal entry, court order, or instrument upon which such claim of possession and ownership is founded shall be considered satisfactory proof of ownership and right of possession, except that if the applicant cannot produce such proof of ownership, he or she may submit to the department such evidence as he or she may have and the department may thereupon, if it finds the evidence sufficient, issue the certificate of title or authorize the county clerk or designated county official to issue a certificate of title, as the case may be. If from the records in the office of the county clerk, the designated county official, or the department there appear to be any liens on the motorboat, the certificate of title shall contain a statement of the liens unless the application is accompanied by proper evidence of their satisfaction or extinction. If the county in which the last certificate of title to the motorboat was issued cannot be determined, the application for title shall be processed by the county clerk or designated county official of the county where the court entering the journal entry or order is located or the county where the instrument was executed upon which the claim of possession and ownership is founded as the case may be.

Source: Laws 1994, LB 123, §11; Laws 1996, LB 464, §19. Operative date January 1, 1997.

**37-1284. Certificate; loss or destruction; replacement; subsequent purchaser, rights; recovery of original; duty of owner.** In the event of a lost or destroyed certificate of title, the owner of the motorboat or the holder of a lien on the motorboat shall apply, upon a form prescribed by the Department of Motor Vehicles, to the county clerk or designated county official of the county where the certificate of title was issued or, if issued by the department, to the department, for a certified copy of the certificate of title and shall pay the fee prescribed by section 37-1287. The application shall be signed and sworn to by the person making the application. The county clerk or designated county official, with the approval of the department, or the department shall issue a certified copy of the certificate of title to the person entitled to receive the certificate of title. If the county clerk's or designated county official's records of the title have been destroyed pursuant to section 37-1279, the county clerk or designated county official shall issue a duplicate certificate of title to the person entitled to receive the certificate upon such showing as the county clerk or designated county official deems sufficient. If the applicant cannot produce such proof of ownership, he or she may apply directly to the department and submit such evidence as he or she may have, and the department may, if it finds the evidence sufficient, authorize the county clerk or designated county official to issue a duplicate certificate of title. The new purchaser shall be entitled to receive an original title upon presentation of the assigned duplicate copy of the certificate of title, properly assigned to the new purchaser, to the county clerk or designated county official as prescribed in section 37-1278. Any purchaser of the motorboat may at the time of purchase require the seller of the motorboat to indemnify him or her and all subsequent purchasers of the motorboat against any loss which he, she, or they may suffer by reason of any claim presented upon the original certificate. In the event of the recovery of the original certificate of title by the owner, he or she shall immediately surrender the certificate to the county clerk, the designated county official, or the department for cancellation.

Source: Laws 1994, LB 123, §12; Laws 1996, LB 464, §20. Operative date January 1, 1997.

**37-1285. Certificate; surrender and cancellation; when required.** Each owner of a motorboat and each person mentioned as owner in the last certificate of title, when the motorboat is dismantled, destroyed, or changed in such a manner that it loses its character as a motorboat or changed in such a manner that it is not the motorboat described in the certificate of title, shall surrender his or her certificate of title to the county clerk or designated county official of the county where the certificate of title was issued or, if issued by the Department of Motor Vehicles, to the department. If the certificate of title is surrendered to the county clerk or designated county official, he or she shall, with the consent of any holders of any liens noted on the certificate, enter a cancellation upon his or her records and shall notify the department of the cancellation. If the certificate is surrendered to the department, it shall, with the consent of any holder of any lien noted on the certificate, enter a

cancellation upon its records. Upon cancellation of a certificate of title in the manner prescribed by this section, the county clerk or designated county official and the department may cancel and destroy all certificates and all memorandum certificates in that chain of title.

Source: Laws 1994, LB 123, §13; Laws 1996, LB 464, §21. Operative date January 1, 1997.

**37-1286. Forms; contents; assignment of hull identification number; fee.** A certificate of title shall be printed upon safety security paper to be selected by the Department of Motor Vehicles. The certificate of title, manufacturer's statement of origin, and assignment of manufacturer's certificate shall be upon forms prescribed by the department and may include county of issuance, date of issuance, certificate of title number, previous certificate of title number, name and address of the owner, acquisition date, manufacturer's name, model year, hull identification number, hull material, propulsion, hull length, issuing county clerk's or designated county official's signature and official seal, and sufficient space for the notation and release of liens, mortgages, or encumbrances, if any. If a motorboat does not have a hull identification number, the state shall assign a hull identification number.

An assignment of certificate of title shall appear on each certificate of title and shall include a statement that the owner of the motorboat assigns all his or her right, title, and interest in the motorboat, the name and address of the assignee, the name and address of the lienholder or secured party, if any, and the signature of the owner.

A reassignment by a dealer shall appear on each certificate of title and shall include a statement that the dealer assigns all his or her right, title, and interest in the motorboat, the name and address of the assignee, the name and address of the lienholder or secured party, if any, and the signature of the dealer or designated representative. Reassignments shall be printed on the reverse side of each certificate of title as many times as convenient. The department may, with the approval of the Attorney General, require additional information on such forms.

The county clerk or designated county official, subject to the approval of the department, shall assign a distinguishing hull identification number to any homebuilt motorboat or any motorboat manufactured prior to November 1, 1972. Hull identification numbers shall be assigned and affixed in conformity with the Federal Boat Safety Act of 1971. The county clerk or designated county official shall charge a nonrefundable fee of twenty dollars for each hull identification number and shall remit the fee to the department. The department shall remit the fees to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 1994, LB 123, §14; Laws 1996, LB 464, §22; Laws 1997, LB 720, §7. Operative date March 27, 1997.

**37-1287. Fees; disposition.** (1) The county clerks, the designated county officials, or the Department of Motor Vehicles shall charge a fee of six dollars for each certificate of title and a fee of three dollars for each notation of any lien on a certificate of title. The county clerks or designated county officials shall retain for the county four dollars of the six dollars charged for each certificate of title and two dollars for each notation of lien. The remaining amount of the fee charged for the certificate of title and notation of lien under this subsection shall be remitted to the State Treasurer for credit to the General Fund.

(2) The county clerks, the designated county officials, or the department shall charge a fee of ten dollars for each replacement or duplicate copy of a certificate of title, and the duplicate copy issued shall show only those unreleased liens of record. A fee of four dollars shall be charged for refiling a certificate of title pursuant to section 37-1279. Such fees shall be remitted by the county or the department to the State Treasurer for credit to the General Fund.

(3) In addition to the fees prescribed in subsections (1) and (2) of this section, the county clerks, the designated county officials, or the department shall charge a fee of four dollars for each certificate of title, each replacement or duplicate copy of a certificate of title, each refiling of a certificate of title, and each notation of lien on a certificate of title. The county clerks, the designated county officials, or the department shall remit the fee charged under this subsection to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(4) The county clerks or designated county officials shall remit fees due the State Treasurer for credit to the General Fund under this section monthly and not later than the fifth day of the month following collection. The county clerks or designated county officials shall remit fees not due to the State Treasurer for credit to the General Fund to their respective county treasurers who shall credit the fees to the county general fund.

Source: Laws 1994, LB 123, §15; Laws 1995, LB 467, §1; Laws 1996, LB 464, §23. Operative date January 1, 1997.

**37-1288. Prohibited acts; penalty.** It shall be a Class IV felony to (1) forge any certificate of title or manufacturer's or importer's certificate to a motorboat, any assignment of either, or any cancellation of any liens on a motorboat, (2) hold or use such certificate, assignment, or cancellation knowing the same to have been forged, (3) procure or attempt to procure a certificate of title to a motorboat or pass or attempt to pass a certificate of title or any assignment thereof to a motorboat, knowing or having reason to believe that such motorboat has been stolen, or (4) knowingly use a false or fictitious name, knowingly give a false or fictitious address, or knowingly make any false statement in any application or affidavit required under sections 37-1275 to 37-1287 or in a bill of sale or sworn statement of ownership.

Source: Laws 1994, LB 123, §16; Laws 1996, LB 464, §24. Operative date January 1, 1997.



**37-1289. Violations; penalty.** It shall be a Class III misdemeanor to (1) operate in this state a motorboat for which a certificate of title is required without having a certificate of title or upon which the certificate of title has been canceled, (2) acquire, purchase, hold, or display for sale a new motorboat without having obtained a manufacturer's or importer's certificate or a certificate of title therefor, (3) fail to surrender any certificate of title or any certificate of number upon cancellation of the certificate by the county clerk, the designated county official, or the Department of Motor Vehicles and notice thereof, (4) fail to surrender the certificate of title to the county clerk or designated county official in case of the destruction or dismantling or change of a motorboat in such respect that it is not the motorboat described in the certificate of title, (5) purport to sell or transfer a motorboat without delivering to the purchaser or transferee of the motorboat a certificate of title if required or a manufacturer's or importer's certificate thereto duly assigned to the purchaser, (6) knowingly alter or deface a certificate of title, or (7) violate any of the other provisions of sections 37-1275 to 37-1287.

Source: Laws 1994, LB 123, §17; Laws 1996, LB 464, §25; Laws 1997, LB 720, §8. Operative date March 27, 1997.

**37-1290. Security interest perfected prior to January 1, 1997; treatment; notation of lien.** (1) Any security interest in a motorboat perfected prior to January 1, 1997, shall continue to be perfected (a) until the financing statement perfecting such security interest is terminated or would have lapsed in the absence of the filing of a continuation statement pursuant to article 9, Uniform Commercial Code, or (b) until a motorboat certificate of title is issued and a lien noted on the face thereof pursuant to section 37-1282.

(2) Any lien noted on the face of a motorboat certificate of title after January 1, 1997, pursuant to subsection (1) of this section, on behalf of the holder of a security interest in the motorboat, shall have priority as of the date such security interest was originally perfected.

(3) The holder of a motorboat certificate of title shall, upon request, surrender the motorboat certificate of title to a holder of a security interest in the motorboat which was perfected prior to January 1, 1997, to permit notation of a lien on the motorboat certificate of title and shall do such other acts as may be required to permit such notation.

(4) The assignment, release, or satisfaction of a security interest in a motorboat shall be governed by the laws under which it was perfected.

Source: Laws 1994, LB 123, § 18; Laws 1999, LB 550, § 8. Operative date July 1, 2001.

**37-1291. Nontransferable certificate of title; issued; when; effect.** When an insurance company authorized to do business in Nebraska acquires a motorboat which has been properly titled and registered in a state other than Nebraska through payment of a total loss settlement on account of theft and the motorboat has not become unusable for transportation through damage and has not sustained any malfunction beyond reasonable maintenance and repair, the company shall obtain the certificate of title from the owner and may make application for a nontransferable certificate of title by surrendering the certificate of title to the county clerk. A nontransferable certificate of title shall be issued in the same manner and for the same fee as provided for a certificate of title in sections 37-1275 to 37-1287 and shall be on a form prescribed by the Department of Motor Vehicles.

A motorboat which has a nontransferable certificate of title shall not be sold or otherwise transferred or disposed of without first obtaining a certificate of title under sections 37-1275 to 37-1287.

When a nontransferable certificate of title is surrendered for a certificate of title, the application shall be accompanied by a statement from the insurance company stating that to the best of its knowledge the motorboat has not become unusable for transportation through damage and has not sustained any malfunction beyond reasonable maintenance and repair. The statement shall not constitute or imply a warranty of condition to any subsequent purchaser or operator of the motorboat.

Source: Laws 1978, LB 21, § 74; Laws 1989, LB 195, § 11; Laws 1993, LB 235, § 44; R.S.Supp., 1993, § 37-1274; Laws 1994, LB 123, § 20; Laws 1996, LB 464, § 26; Laws 1998, LB 922, § 402; Laws 1999, LB 176, § 126; Laws 2004, LB 560, § 4. Operative date July 16, 2004.

**37-1292. Salvage certificate of title; terms, defined.** For purposes of this section and sections 37-1293 to 37-1298:

(1) Cost of repairs means the estimated or actual retail cost of parts needed to repair a motorboat plus the cost of labor computed by using the hourly labor rate and time allocations for repair that are customary and reasonable. Retail cost of parts and labor rates may be based upon collision estimating manuals or electronic computer estimating systems customarily used in the insurance industry;

(2) Late model motorboat means a motorboat which has (a) a manufacturer's model year designation of, or later than, the year in which the motorboat was wrecked, damaged, or destroyed, or any of the six preceding years, or (b) a retail value of more than ten thousand dollars until January 1, 2006, a retail value of more than ten thousand five hundred dollars until January 1, 2010, and a retail value of more than ten thousand five hundred dollars increased by five hundred dollars every five years thereafter;

(3) Previously salvaged means the designation of a rebuilt or reconstructed motorboat which was previously required to be issued a salvage branded certificate of title;

(4) Retail value means the actual cash value, fair market value, or retail value of a motorboat as (a) set forth in a current edition of any nationally recognized compilation, including automated data bases, of retail values or (b) determined pursuant

to a market survey of comparable motorboats with respect to condition and equipment; and

(5) Salvage means the designation of a motorboat which is:

(a) A late model motorboat which has been wrecked, damaged, or destroyed to the extent that the estimated total cost of repair to rebuild or reconstruct the motorboat to its condition immediately before it was wrecked, damaged, or destroyed and to restore the motorboat to a condition for legal operation, meets or exceeds seventy-five percent of the retail value of the motorboat at the time it was wrecked, damaged, or destroyed; or

(b) Voluntarily designated by the owner of the motorboat as a salvage motorboat by obtaining a salvage branded certificate of title, without respect to the damage to, age of, or value of the motorboat.

Source: Laws 2004, LB 560, § 5. Operative date July 16, 2004.

**37-1293. Salvage branded certificate of title; when issued; procedure.** When an insurance company acquires a salvage motorboat through payment of a total loss settlement on account of damage, the company shall obtain the certificate of title from the owner, surrender such certificate of title to the county clerk, and make application for a salvage branded certificate of title which shall be assigned when the company transfers ownership. An insurer shall take title to a salvage motorboat for which a total loss settlement is made unless the owner of the motorboat elects to retain the motorboat. If the owner elects to retain the motorboat, the insurance company shall notify the Department of Motor Vehicles of such fact in a format prescribed by the department. The department shall immediately enter the salvage brand onto the computerized record of the motorboat. The insurance company shall also notify the owner of the owner's responsibility to comply with this section. The owner shall, within thirty days after the settlement of the loss, forward the properly endorsed acceptable certificate of title to the county clerk or designated county official in the county designated in section 37-1214. The county clerk or designated county official shall, upon receipt of the certificate of title, issue a salvage branded certificate of title for the motorboat.

Source: Laws 2004, LB 560, § 6. Operative date July 16, 2004.

**37-1294. Salvage or previously salvaged title brand; procedure; fee.** Whenever a title is issued in this state for a motorboat that is designated as salvage or previously salvaged, the following title brands shall be required: Salvage or previously salvaged. A certificate branded salvage or previously salvaged shall be administered in the same manner and for the same fee as provided for a certificate of title in sections 37-1275 to 37-1287.

Source: Laws 2004, LB 560, § 7. Operative date July 16, 2004.

**37-1295. Certificate of title; disclosures required.** A certificate of title which is issued on or after January 1, 2005, shall disclose in writing, from any records readily accessible to the Department of Motor Vehicles or county officials or a law enforcement officer, anything which indicates that the motorboat was previously issued a title in another jurisdiction that bore any word or symbol signifying that the motorboat was damaged, including, but not limited to, older model salvage, unbuildable, parts only, scrap, junk, nonrepairable, reconstructed, rebuilt, flood damaged, damaged, or any other indication, symbol, or word of like kind, and the name of the jurisdiction issuing the previous title.

Source: Laws 2004, LB 560, § 8. Operative date July 16, 2004.

**37-1296. Acquisition of salvage motorboat without salvage branded certificate of title; duties.** Any person who acquires ownership of a salvage motorboat, for which he or she does not obtain a salvage branded certificate of title, shall surrender the certificate of title to the county clerk and make application for a salvage branded certificate of title within thirty days after acquisition or prior to the sale or resale of the motorboat or any major component part of such motorboat or use of any major component part of the motorboat, whichever occurs earlier.

Source: Laws 2004, LB 560, § 9. Operative date July 16, 2004.

**37-1297. Sections; hot construed.** Nothing in sections 37-1293 to 37-1298 shall be construed to require the actual repair of a wrecked, damaged, or destroyed motorboat to be designated as salvage.

Source: Laws 2004, LB 560, § 10. Operative date July 16, 2004.

**37-1298. Salvage motorboat; prohibited acts; penalty.** Any person who knowingly transfers a wrecked, damaged, or destroyed motorboat in violation of sections 37-1293 to 37-1296 is guilty of a Class IV felony.

Source: Laws 2004, LB 560, § 11. Operative date July 16, 2004.

**37-1299. Abandoned motorboat, defined.** (1) A motorboat is abandoned:

(a) If left unattended for more than seven days on any public property;

(b) If left unattended for more than seven days on private property if left initially without permission of the owner;

(c) If left for more than seven days on private property after permission of the owner is terminated; or

(d) If left for more than thirty days in the custody of a law enforcement agency after the agency has sent a letter to the last-registered owner under section 37-12,102.

(2) For purposes of this section:

(a) Public property means any public park, waterfront, or other state, county, or municipally owned property; and

(b) Private property means any privately owned property which is not included within the definition of public property.

(3) No motorboat subject to forfeiture under section 28-431 shall be deemed abandoned under this section.

Source: Laws 2004, LB 560, § 12. Operative date July 16, 2004.

**37-12,100. Abandoned motorboat; title; vest in local authority or state agency; when.** If an abandoned motorboat, at the time of abandonment, has no hull identification number affixed and is of a wholesale value, taking into consideration the condition of the motorboat, of two hundred fifty dollars or less, title shall immediately vest in the local authority or state agency having jurisdiction thereof as provided in section 37-12,103. Any certificate of title issued under this section to the local authority or state agency shall be issued at no cost to such authority or agency.

Source: Laws 2004, LB 560, § 13. Operative date July 16, 2004.

**37-12,101. Local authority or state agency; powers and duties.** (1) Except for motorboats covered by section 37-12,100, the local authority or state agency having custody of an abandoned motorboat shall make an inquiry concerning the last-registered owner of such motorboat to the Department of Motor Vehicles.

(2) The local authority or state agency shall notify the last-registered owner, if any, that the motorboat in question has been determined to be abandoned and that, if unclaimed, either (a) it will be sold or will be offered at public auction after five days from the date such notice was mailed or (b) title will vest in the local authority or state agency thirty days after the date such notice was mailed. If the Department of Motor Vehicles also notifies the local authority or state agency that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such motorboat shall be required to pay the cost of removal and storage of such motorboat.

(3) Title to an abandoned motorboat, if unclaimed, shall vest in the local authority or state agency (a) five days after the date the notice is mailed if the motorboat will be sold or offered at public auction under subdivision (2)(a) of this section, (b) thirty days after the date the notice is mailed if the local authority or state agency will retain the motorboat, or (c) if the last-registered owner cannot be ascertained, when notice of such fact is received.

(4) After title to the abandoned motorboat vests pursuant to subsection (3) of this section, the local authority or state agency may retain for use, sell, or auction the abandoned motorboat. If the local authority or state agency has determined that the motorboat should be retained for use, the local authority or state agency shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the local authority or state agency intends to retain the abandoned vehicle for its use and that title will vest in the local authority or state agency thirty days after the publication.

Source: Laws 2004, LB 560, § 14. Operative date July 16, 2004.

**37-12,102. State or local law enforcement agency; powers and duties.** A state or local law enforcement agency which has custody of a motorboat for investigatory purposes and has no further need to keep it in custody shall send a certified letter to each of the last-registered owners stating that the motorboat is in the custody of the law enforcement agency, that the motorboat is no longer needed for law enforcement purposes, and that after thirty days the agency will dispose of the motorboat. This section shall not apply to a motorboat subject to forfeiture under section 28-431. No storage fees shall be assessed against the registered owner of a motorboat held in custody for investigatory purposes under this section unless the registered owner or the person in possession of the motorboat when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the motorboat into custody. If a registered owner or the person in possession of the motorboat when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees.

Source: Laws 2004, LB 560, § 15. Operative date July 16, 2004.

**37-12,103. Custody; who entitled.** If a state agency caused an abandoned motorboat described in subdivision (1)(d) of section 37-1299 to be removed from public property, the state agency shall be entitled to custody of the motorboat. If a state agency caused an abandoned motorboat described in subdivision (1)(a), (b), or (c) of section 37-1299 to be removed from public property, the state agency shall deliver the motorboat to the local authority which shall have custody. The local authority entitled to custody of an abandoned motorboat shall be the county in which the motorboat was abandoned or, if abandoned in a city or village, the city or village in which the motorboat was abandoned.

Source: Laws 2004, LB 560, § 16. Operative date July 16, 2004.

**37-12,104. Proceeds of sale; disposition.** Any proceeds from the sale of an abandoned motorboat less any expenses incurred by the local authority or state agency shall be held by the local authority or state agency, without interest, for the benefit of the owner or lienholders of such motorboat for a period of two years. If not claimed within such two-year period, the proceeds shall be paid into the general fund of the local authority entitled to custody under section 37-12,103 or the General Fund if a state agency is entitled to custody under section 37-12,103.

Source: Laws 2004, LB 560, § 17. Operative date July 16, 2004.

**37-12,105. Liability for removal.** Neither the owner, lessee, nor occupant of the premises from which any abandoned motorboat is removed, nor the state, city, village, or county, shall be liable for any loss or damage to such motorboat which occurs during its removal or while in the possession of the state, city, village, or county or its contractual agent or as a result of any subsequent disposition.

Source: Laws 2004, LB 560, § 18. Operative date July 16, 2004.

**37-12,106. Person cannot abandon a motorboat.** No person shall cause any motorboat to be abandoned as described in subdivision (1)(a), (b), or (c) of section 37-1299.

Source: Laws 2004, LB 560, § 19. Operative date July 16, 2004.

**37-12,107. Destroy, deface, or remove parts; unlawful; exception; violation; penalty.** No person other than one authorized by the appropriate local authority or state agency shall destroy, deface, or remove any part of a motorboat which is left unattended on a highway or other public place without a hull identification number affixed or which is abandoned. Anyone violating this section is guilty of a Class V misdemeanor.

Source: Laws 2004, LB 560, § 20. Operative date July 16, 2004.

**37-12,108. Costs of removal and storage; last-registered owner; liable.** The last-registered owner of an abandoned motorboat shall be liable to the local authority or state agency for the costs of removal and storage of such motorboat.

Source: Laws 2004, LB 560, § 21. Operative date July 16, 2004.

**37-12,109. Rules and regulations.** The Director of Motor Vehicles may adopt and promulgate rules and regulations providing for such forms and procedures as are necessary or desirable to effectuate sections 37-1299 to 37-12,110. Such rules and regulations may include procedures for the removal and disposition of hull identification numbers of abandoned motorboats, forms for local records for abandoned motorboats, and inquiries relating to ownership of such motorboats.

Source: Laws 2004, LB 560, § 22. Operative date July 16, 2004.

**37-12,110. Violations; penalty.** Any person violating sections 37-1299 to 37-12,106 shall be guilty of a Class II misdemeanor.

Source: Laws 2004, LB 560, § 23. Operative date July 16, 2004.

#### **HIGHWAYS AND BRIDGES NEBRASKA RULES OF THE ROAD SPECIFIC TRAFFIC OFFENSES**

**39-668. Transferred** to section 60-6,195.

**39-669 and 39-669.01. Transferred** to sections 60-6,212 and 60-6,213.

**39-669.02. Transferred** to section 60-6,215.

**39-669.03. Transferred** to section 60-6,214.

**39-669.04 to 39-669.06. Transferred** to sections 60-6,216 to 60-6,218.

**39-669.07 and 39-669.08. Transferred** to sections 60-6,196 and 60-6,197.

**39-669.09 to 39-669.20. Transferred** to sections 60-6,199 to 60-6,210.

**39-669.21. Transferred** to section 60-6,222.

**39-669.22 to 39-669.25. Transferred** to sections 60-497.01 to 60-497.04.

**39-669.26 to 39-669.30. Transferred** to sections 60-4,182 to 60-4,186.

**39-669.31 and 39-669.32. Repealed.** Laws 1982, LB 568, §10.

**39-669.33. Transferred** to section 60-4,187.

**39-669.34 and 39-669.35. Transferred** to sections 60-4,129 and 60-4,130.

**39-669.36. Repealed.** Laws 1993, LB 370, §495.

**39-669.37. Transferred** to section 60-4,188.

**39-669.38. Transferred** to section 60-6,211.

**39-669.39. Transferred** to section 60-6,198.

#### **HIGHWAYS AND BRIDGES NEBRASKA RULES OF THE ROAD ACCIDENTS AND ACCIDENT REPORTS**

**39-6,104. Transferred** to section 60-695.

**39-6,104.01. Transferred** to section 60-697.

**39-6,104.02. Transferred** to section 60-696.

**39-6,104.03 to 39-6,104.12. Transferred** to sections 60-698 to 60-6,107.

## **LABOR DRUG AND ALCOHOL TESTING**

**48-1901. Legislative intent.** It is the intent of the Legislature through sections 48-1901 to 48-1910 to help in the treatment and elimination of drug and alcohol use and abuse in the workplace while protecting the employee's rights. Nothing in sections 48-1901 to 48-1910 shall be construed to require employers to conduct drug and alcohol testing of their employees nor shall sections 48-1901 to 48-1910 be determinative of the cases or circumstances under which such tests may be given.

Source: Laws 1988, LB 582, §1.

**48-1902. Terms, defined.** For purposes of sections 48-1901 to 48-1910, unless the context otherwise requires:

(1) Alcohol shall mean any product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, synthetic ethyl alcohol, the four varieties of liquor defined in subdivisions (1) through (4) of section 53-103, alcohol, spirits, wine, and beer, every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer, and alcohol used in the manufacture of denatured alcohol, flavoring extracts, syrups, or medicinal, mechanical, scientific, culinary, and toilet preparations;

(2) Breath-testing device shall mean intoxilyzer model 4011AS or other scientific testing equivalent as approved by and operated in accordance with the department rules and regulations;

(3) Breath-testing-device operator shall mean a person who has obtained or been issued a permit pursuant to the department rules and regulations;

(4) Department shall mean the Department of Health and Human Services Regulation and Licensure;

(5) Department rules and regulations shall mean the techniques and methods authorized pursuant to section 60-6,201;

(6) Drug shall mean any substance, chemical, or compound as described, defined, or delineated in sections 28-405 and 28-419 or any metabolite or conjugated form thereof, except that any substance, chemical, or compound containing any product as defined in subdivision (1) of this section may also be defined as alcohol;

(7) Employee shall mean any person who receives any remuneration, commission, bonus, or other form of wages in return for such person's actions which directly or indirectly benefit an employer; and

(8) Employer shall mean the State of Nebraska and its political subdivisions, all other governmental entities, or any individual, association, corporation, or other organization doing business in the State of Nebraska unless it, he, or she employs a total of less than six full-time and part-time employees at any one time.

Source: Laws 1988, LB 582, §2; Laws 1993, LB 370, §44; Laws 1994, LB 859, §1; Laws 1996, LB 1044, §276.

Operative date January 1, 1997.

**48-1903. Test results; use; requirements.** Any results of any test performed on the body fluid or breath specimen of an employee, as directed by the employer, to determine the presence of drugs or alcohol shall not be used to deny any continued employment or in any disciplinary or administrative action unless the following requirements are met:

(1) A positive finding of drugs by preliminary screening procedures has been subsequently confirmed by gas chromatography-mass spectrometry or other scientific testing technique which has been or may be approved by the department; and

(2) A positive finding of alcohol by preliminary screening procedures is subsequently confirmed by either:

(a) Gas chromatography with a flame ionization detector or other scientific testing technique which has been or may be approved by the department; or

(b) A breath-testing device operated by a breath-testing-device operator. Nothing in this subdivision shall be construed to preclude an employee from immediately requesting further confirmation of any breath-testing results by a blood sample if the employee voluntarily submits to give a blood sample taken by qualified medical personnel in accordance with the rules and regulations adopted and promulgated by the department. If the confirmatory blood test results do not confirm a violation of the employer's work rules, any disciplinary or administrative action shall be rescinded.

Except for a confirmatory breath test as provided in subdivision (2)(b) of this section, all confirmatory tests shall be performed by a clinic, hospital, or laboratory which is certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, 42 U.S.C. 263a.

Source: Laws 1988, LB 582, § 3; Laws 2000, LB 1115, § 5. Effective date April 14, 2000.

**48-1904. Specimens; preservation.** Except for breath test specimens as provided in subdivision (2)(b) of section 48-1903, all specimens which result in a finding of drugs or alcohol shall be refrigerated and preserved in a sufficient quantity for retesting for a period of at least one hundred eighty days.

Source: Laws 1988, LB 582, §4.

**48-1905. Specimens; chain of custody.** Except for breath test specimens as provided in subdivision (2)(b) of section 48-1903, a written record of the chain of custody of the specimen shall be maintained from the time of the collection of the specimen until the specimen is no longer required.

Source: Laws 1988, LB 582, §5.

**48-1906. Test results; release or disclosure; when.** The employer or its, his, or her agents shall not release or disclose the test results to the public, except that such results shall be released as required by law or to the employee upon request. Test results may be released to those officers, agents, or employees of the employer who need to know the information for reasons connected with their employment.

Source: Laws 1988, LB 582, §6.

**48-1907. Sections, how construed.** Nothing in sections 48-1901 to 48-1906 shall be construed to establish any rule, right, or duty not expressly provided for in such sections.

Source: Laws 1988, LB 582, §7.

**48-1908. Body fluids; prohibited acts; penalty.** (1) It shall be unlawful to provide, acquire, or use body fluids for the purpose of altering the results of any test to determine the presence of drugs or alcohol.

(2) Any employee who violates subsection (1) of this section may be subjected to the same discipline as if the employee had refused the directive of the employer to provide a body fluid or breath sample.

(3) Any person, including an employee, who violates subsection (1) of this section shall be guilty of a Class I misdemeanor.

Source: Laws 1988, LB 582, §8.

**48-1909. Body fluids; tampering; penalty.** (1) No person shall tamper with or aid or assist another in tampering with body fluids at any time during or after the collection or analysis of such fluids for the purpose of altering the results of any test to determine the presence of drugs or alcohol.

(2) Any employee who violates subsection (1) of this section may be subjected to the same discipline as if the employee had refused the directive of the employer to provide a body fluid or breath sample.

(3) Any person, including an employee, who violates subsection (1) of this section shall be guilty of a Class I misdemeanor.

Source: Laws 1988, LB 582, §9.

**48-1910. Refusal to submit to test; effect.** Any employee who refuses the lawful directive of an employer to provide a body fluid or breath sample as provided in section 48-1903 may be subject to disciplinary or administrative action by the employer, including denial of continued employment.

Source: Laws 1988, LB 582, §10.

## **MOTOR VEHICLES NEBRASKA RULES OF THE ROAD ACCIDENTS AND ACCIDENT REPORTING**

**60-695. Peace officers; investigation of traffic accident; duty to report; Department of Roads; powers; duties.** It shall be the duty of any peace officer who investigates any traffic accident in the performance of his or her official duties in all instances of an accident resulting in injury or death to any person or in which estimated damage exceeds one thousand dollars to the property of any one person to submit an original report of such investigation to the Accident Records Bureau of the Department of Roads within ten days after each such accident. The department shall have authority to collect accident information it deems necessary and shall prescribe and furnish appropriate forms for reporting.

Source: Laws 1973, LB 45, § 104; Laws 1985, LB 94, § 1; Laws 1988, LB 1030, § 41; R.S.1943, (1988), § 39-6,104; Laws 1993, LB 370, § 191; Laws 2003, LB 185, § 3. Operative date January 1, 2004.

**60-696. Motor vehicle; accident; duty to stop; information to furnish; report; violation; penalty.** (1) Except as provided in subsection (2) of this section, the driver of any vehicle involved in an accident either upon a public highway, private road, or private drive, resulting in damage to property, shall (a) immediately stop such vehicle at the scene of such accident and (b) give his or her name, address, telephone number, and his or her operator's license number to the owner of the property struck or the driver or occupants of any other vehicle involved in the collision.

(2) The driver of any vehicle involved in an accident either upon a public highway, private road, or private drive, resulting in damage to an unattended vehicle or property, shall immediately stop such vehicle and leave in a conspicuous

place in or on the unattended vehicle or property a written notice containing the information required by subsection (1) of this section. In addition, such driver shall, without unnecessary delay, report the collision, by telephone or otherwise, to an appropriate peace officer.

(3) Any person violating subsection (1) or (2) of this section shall be guilty of a Class II misdemeanor. If such person has had one or more convictions under this section in the twelve years prior to the date of the current conviction under this section, such person shall be guilty of a Class I misdemeanor. As part of any sentence, suspended sentence, or judgment of conviction under this section, the court shall order the defendant not to drive any motor vehicle for any purpose in the State of Nebraska for a period of one year from the date ordered by the court.

Source: Laws 1931, c. 110, § 28, p. 314; C.S.Supp.,1941, § 39-1159; R.S.1943, § 39-762; Laws 1947, c. 148, § 2(2), p. 409; Laws 1949, c. 119, § 2, p. 316; Laws 1949, c. 120, § 2, p. 317; Laws 1959, c. 169, § 1, p. 617; R.R.S.1943, § 39-762.01; Laws 1978, LB 748, § 26; R.S.1943, (1988), § 39-6,104.02; Laws 1993, LB 370, § 192; Laws 1994, LB 929, § 1; Laws 2001, LB 254, § 1; Laws 2006, LB 925, § 7. Effective date July 14, 2006.

**60-697. Accident; driver's duty; penalty.** The driver of any vehicle involved in an accident upon either a public highway, private road, or private drive, resulting in injury or death to any person, shall (1) immediately stop such vehicle at the scene of such accident and ascertain the identity of all persons involved, (2) give his or her name and address and the license number of the vehicle and exhibit his or her operator's license to the person struck or the driver or occupants of any vehicle collided with, and (3) render to any person injured in such accident reasonable assistance, including the carrying of such person to a physician or surgeon for medical or surgical treatment if it is apparent that such treatment is necessary or is requested by the injured person. Any person violating any of the provisions of this section shall upon conviction thereof be punished as provided in section 60-698.

Source: Laws 1931, c. 110, § 28, p. 314; C.S.Supp.,1941, § 39-1159; R.S.1943, § 39-762; Laws 1947, c. 148, § 2(1), p. 409; Laws 1949, c. 119, § 1, p. 315; Laws 1949, c. 120, § 1, p. 317; R.R.S.1943, § 39-762; R.S.1943, (1988), § 39-6,104.01; Laws 1993, LB 370, § 193; Laws 2005, LB 274, § 40; Laws 2006, LB 925, § 8. Effective date July 14, 2006.

**60-698. Accident; failure to stop; penalty.** Every person convicted of violating section 60-697 relative to the duty to stop in the event of certain accidents shall be guilty of a Class IIIA felony. The court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle for any purpose for a period of not less than one year nor more than fifteen years from the date ordered by the court, and shall order that the operator's license of such person be revoked for a like period. The order of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked, whichever is later.

Source: Laws 1931, c. 110, § 56, p. 324; C.S.Supp.,1941, § 39-1187; R.S.1943, § 39-763; Laws 1953, c. 214, § 2, p. 757; R.R.S.1943, § 39-763; Laws 1978, LB 748, § 27; R.S.1943, (1988), § 39-6,104.03; Laws 1993, LB 31, § 18; Laws 1993, LB 370, § 194; Laws 1997, LB 772, § 6; Laws 2006, LB 925, § 9. Effective date July 14, 2006.

**60-699. Accidents; reports required of operators and owners; when; supplemental reports; reports of peace officers open to public inspection; limitation on use as evidence; violation; penalty.** (1) The operator of any vehicle involved in an accident resulting in injuries or death to any person or damage to the property of any one person, including such operator, to an apparent extent of more than one thousand dollars shall within ten days forward a report of such accident to the Department of Roads. If the operator is physically incapable of making the report, the owner of the motor vehicle involved in the accident shall, within ten days from the time he or she learns of the accident, report the matter in writing to the Department of Roads. The Department of Roads or Department of Motor Vehicles may require operators involved in accidents to file supplemental reports of accidents upon forms furnished by it whenever the original report is insufficient in the opinion of either department. The operator or the owner of the motor vehicle shall make such other and additional reports relating to the accident as either department requires. Such records shall be retained for the period of time specified by the State Records Administrator pursuant to the Records Management Act.

(2) The report of accident required by this section shall be in two parts. Part I shall be in such form as the Department of Roads may prescribe and shall disclose full information concerning the accident. Part II shall be in such form as the Department of Motor Vehicles may prescribe and shall disclose sufficient information to disclose whether or not the financial responsibility requirements of the Motor Vehicle Safety Responsibility Act are met through the carrying of liability insurance. The form used for the report shall be so perforated that the parts may be readily separated.

(3) Upon receipt of a report of accident, the Department of Roads shall determine the reportability and classification of the accident and enter all information into a computerized data base. Upon completion, the department shall separate the parts of the accident report and shall forward Part II of the report to the Department of Motor Vehicles for processing as provided in section 60-506.01.

(4) Such reports shall be without prejudice. All reports made by peace officers, made to or filed with peace officers in their respective offices or departments, or filed with or made by or to any other law enforcement agency of the state shall be open to public inspection, but accident reports filed by the operator or owner of a motor vehicle pursuant to this section shall not be open to public inspection. The fact that a report by an operator or owner has been so made shall be admissible in

evidence solely to prove compliance with this section, but no such report or any part of or statement contained in the report shall be admissible in evidence for any other purpose in any trial, civil or criminal, arising out of such accidents nor shall the report be referred to in any way or be any evidence of the negligence or due care of either party at the trial of any action at law to recover damages.

(5) The failure by any person to report an accident as provided in this section or to correctly give the information required in connection with the report shall be a Class V misdemeanor.

Source: Laws 1931, c. 110, § 29, p. 315; C.S.Supp.,1941, § 39-1160; R.S.1943, § 39-764; Laws 1951, c. 120, § 1, p. 531; Laws 1953, c. 215, § 1, p. 761; Laws 1961, c. 189, § 2, p. 580; Laws 1961, c. 319, § 1, p. 1019; Laws 1973, LB 417, § 1; R.S.Supp.,1973, § 39-764; Laws 1985, LB 94, § 2; R.S.1943, (1988), § 39-6,104.04; Laws 1993, LB 370, § 195; Laws 1993, LB 575, § 24; Laws 2003, LB 185, § 4. Operative date January 1, 2004.

**60-6,100. Accidents; reports required of garages and repair shops.** The person in charge of any garage or repair shop to which is brought any vehicle which shows evidence of having been involved in a serious accident or struck by any bullet shall report to the nearest police station or sheriff's office within twenty-four hours after such vehicle is received, giving the engine number, if applicable, the license number, and the name and address of the owner or operator of such vehicle.

Source: Laws 1931, c. 110, §30, p. 315; C.S.Supp.,1941, §39-1161; R.S.1943, § 39-765; R.S.1943, (1988), §39-6,104.05; Laws 1993, LB 370, §196; Laws 2005, LB 274, §241. Effective date September 4, 2005.

**60-6,101. Accidents; coroner; report to Department of Roads.** Any coroner or other official performing the duties of coroner shall report in writing to the Department of Roads the death of any person within his or her jurisdiction as the result of an accident involving a motor vehicle and the circumstances of such accident. Such report by the coroner shall be made within ten days after such death.

Source: Laws 1974, LB 66, §1; R.S. 1943, (1988), §39-6,104.06; Laws 1993, LB 370, §197; Laws 1993, LB 590, §1.

**60-6,102. Accident; death; driver; pedestrian sixteen years or older; coroner; examine body; amount of alcohol or drugs; report to Department of Roads; public information.** In the case of a driver who dies within four hours after being in a motor vehicle accident, including a motor vehicle accident in which one or more persons in addition to such driver is killed, and of a pedestrian sixteen years of age or older who dies within four hours after being struck by a motor vehicle, the coroner or other official performing the duties of coroner shall examine the body and cause such tests to be made as are necessary to determine the amount of alcohol or drugs in the body of such driver or pedestrian. Such information shall be included in each report submitted pursuant to sections 60-6,101 to 60-6,104 and shall be tabulated on a monthly basis by the Department of Roads. Such information, including the identity of the deceased and any such amount of alcohol or drugs, shall be public information and may be released or disclosed as provided in rules and regulations of the department.

Source: Laws 1974, LB 66, §2; R.S. 1943, (1988), §39-6,104.07; Laws 1993, LB 370, §198; Laws 1993, LB 590, §2.

**60-6,103. Accident; driver or pedestrian sixteen years of age or older; person killed; submit to chemical test; results in writing to Director-State Engineer; public information.** Any surviving driver or pedestrian sixteen years of age or older who is involved in a motor vehicle accident in which a person is killed shall be requested, if he or she has not otherwise been directed by a peace officer to submit to a chemical test under section 60-6,197, to submit to a chemical test of blood, urine, or breath as the peace officer directs for the purpose of determining the amount of alcohol or drugs in his or her body fluid. The results of such test shall be reported in writing to the Director-State Engineer who shall tabulate such results on a monthly basis. Such information, including the identity of such driver or pedestrian and any such amount of alcohol or drugs, shall be public information and may be released or disclosed as provided in rules and regulations of the Department of Roads. The provisions of sections 60-6,199, 60-6,200, and 60-6,202 shall, when applicable, apply to the tests provided for in this section.

Source: Laws 1974, LB 66, §3; R.S. 1943, (1988), §39-6,104.08; Laws 1993, LB 370, §199; Laws 1993, LB 590, §3.

**60-6,104. Accidents; body fluid; samples; test; report.** All samples and tests of body fluids under sections 60-6,101 to 60-6,103 shall be submitted to and performed by an individual possessing a valid permit issued by the Department of Health and Human Services Regulation and Licensure for such purpose. Such tests shall be performed according to methods approved by the department. Such individual shall promptly perform such analysis and report the results thereof to the official submitting the sample.

Source: Laws 1974, LB 66, §4; R.S. 1943, (1988), §39-6,104.09; Laws 1993, LB 370, §200; Laws 1996, LB 1044, §282. Operative date January 1, 1997.

**60-6,105. Accidents; reports; statements; not available in trial arising out of accident involved; exception.** No report and no statement contained in a report submitted pursuant to sections 60-6,101 to 60-6,104 or any part thereof shall be made available for any purpose in any trial arising out of the accident involved unless necessary solely to prove compliance with such sections.



Source: Laws 1974, LB 66, §5; R.S. 1943, (1988), §39-6,104.10; Laws 1993, LB 370, §201.

**60-6,106. Accidents; reports; expenses; reimbursement to county by Department of Roads.** The Department of Roads shall reimburse any county for expenses and costs incurred by the county pursuant to sections 60-6,101 to 60-6,105. The department shall provide the official in each county with the appropriate reporting form.

Source: Laws 1974, LB 66, §6; R.S. 1943, (1988), §39-6,104.11; Laws 1993, LB 370, §202; Laws 1993, LB 590, §4.

**60-6,107. Accidents; Department of Health and Human Services Regulation and Licensure; Department of Roads; adopt rules and regulations.** (1) Except as provided in subsection (2) of this section, the Department of Health and Human Services Regulation and Licensure shall adopt necessary rules and regulations for the administration of the provisions of sections 60-6,101 to 60-6,106.

(2) The Department of Roads shall adopt and promulgate rules and regulations which shall provide for the release and disclosure of the results of tests conducted under sections 60-6,102 and 60-6,103.

Source: Laws 1974, LB 66, §7; R.S. 1943, (1988), §39-6,104.12; Laws 1993, LB 370, §203; Laws 1993, LB 590, §5; Laws 1996, LB 1044, §283. Operative date January 1, 1997.

## **MOTOR VEHICLES NEBRASKA RULES OF THE ROAD ALCOHOL AND DRUG VIOLATIONS**

**60-6,196. Driving under influence of alcoholic liquor or drug; penalties.** (1) It shall be unlawful for any person to operate or be in the actual physical control of any motor vehicle:

(a) While under the influence of alcoholic liquor or of any drug;

(b) When such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood; or

(c) When such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath.

(2) Any person who operates or is in the actual physical control of any motor vehicle while in a condition described in subsection (1) of this section shall be guilty of a crime and upon conviction punished as provided in sections 60-6,197.02 to 60-6,197.08.

Source: Laws 1919, c. 190, tit. VII, art. IV, § 32, p. 830; C.S.1922, § 8396; Laws 1925, c. 159, § 13, p. 418; Laws 1927, c. 153, § 1, p. 411; Laws 1929, c. 144, § 1, p. 505; C.S.1929, § 39-1106; Laws 1931, c. 103, § 1, p. 275; Laws 1935, c. 134, § 2, p. 484; Laws 1937, c. 140, § 1, p. 504; C.S.Supp.,1941, § 39-1106; R.S.1943, § 39-727; Laws 1947, c. 148, § 1, p. 408; Laws 1949, c. 116, § 1, p. 310; Laws 1951, c. 118, § 1, p. 528; Laws 1953, c. 135, § 1, p. 422; Laws 1953, c. 214, § 1, p. 755; Laws 1961, c. 186, § 1, p. 574; Laws 1971, LB 948, § 1; Laws 1972, LB 1095, § 1; Laws 1973, LB 290, § 1; R.S.Supp.,1973, § 39-727; Laws 1978, LB 748, § 52; Laws 1980, LB 651, § 1; Laws 1982, LB 568, § 5; Laws 1986, LB 153, § 3; Laws 1987, LB 404, § 1; Laws 1988, LB 377, § 1; Laws 1990, LB 799, § 1; Laws 1992, LB 291, § 4; R.S.Supp.,1992, § 39-669.07; Laws 1993, LB 370, § 292; Laws 1993, LB 564, § 7; Laws 1998, LB 309, § 13; Laws 1999, LB 585, § 5; Laws 2000, LB 1004, § 1; Laws 2001, LB 38, § 47; Laws 2001, LB 166, § 4; Laws 2001, LB 773, § 15; Laws 2003, LB 209, § 11; Laws 2004, LB 208, § 10. Effective date July 16, 2004.

**60-6,197. Driving under influence of alcoholic liquor or drugs; implied consent to submit to chemical test; when test administered; refusal; penalty.** (1) Any person who operates or has in his or her actual physical control a motor vehicle in this state shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine.

(2) Any peace officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of any city or village may require any person arrested for any offense arising out of acts alleged to have been committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic liquor or drugs to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine when the officer has reasonable grounds to believe that such person was driving or was in the actual physical control of a motor vehicle in this state while under the influence of alcoholic liquor or drugs in violation of section 60-6,196.

(3) Any person arrested as described in subsection (2) of this section may, upon the direction of a peace officer, be required to submit to a chemical test or tests of his or her blood, breath, or urine for a determination of the concentration of alcohol or the presence of drugs. If the chemical test discloses the presence of a concentration of alcohol in violation of subsection (1) of section 60-6,196, the person shall be subject to the administrative revocation procedures provided in sections 60-498.01 to 60-498.04 and upon conviction shall be punished as provided in sections 60-6,197.02 to 60-6,197.08. Any person who refuses to submit to such test or tests required pursuant to this section shall be subject to the administrative revocation procedures provided in sections 60-498.01 to 60-498.04 and shall be guilty of a crime and upon conviction

punished as provided in sections 60-6,197.02 to 60-6,197.08.

(4) Any person involved in a motor vehicle accident in this state may be required to submit to a chemical test of his or her blood, breath, or urine by any peace officer if the officer has reasonable grounds to believe that the person was driving or was in actual physical control of a motor vehicle on a public highway in this state while under the influence of alcoholic liquor or drugs at the time of the accident. A person involved in a motor vehicle accident subject to the implied consent law of this state shall not be deemed to have withdrawn consent to submit to a chemical test of his or her blood, breath, or urine by reason of leaving this state. If the person refuses a test under this section and leaves the state for any reason following an accident, he or she shall remain subject to subsection (3) of this section and section 60-498.02 upon return.

(5) Any person who is required to submit to a chemical blood, breath, or urine test or tests pursuant to this section shall be advised that refusal to submit to such test or tests is a separate crime for which the person may be charged.

(6) Refusal to submit to a chemical blood, breath, or urine test or tests pursuant to this section shall be admissible evidence in any action for a violation of section 60-6,196 or a city or village ordinance enacted in conformance with such section.

Source: Laws 1959, c. 168, § 1, p. 613; Laws 1961, c. 187, § 2, p. 577; Laws 1963, c. 229, § 1, p. 716; Laws 1971, LB 948, § 2; Laws 1972, LB 1095, § 2; R.S.Supp., 1972, § 39-727.03; Laws 1982, LB 568, § 6; Laws 1986, LB 153, § 4; Laws 1987, LB 404, § 2; Laws 1987, LB 224, § 1; Laws 1988, LB 377, § 2; Laws 1990, LB 799, § 2; Laws 1992, LB 872, § 1; Laws 1992, LB 291, § 5; R.S.Supp., 1992, § 39-669.08; Laws 1993, LB 370, § 293; Laws 1993, LB 564, § 8; Laws 1996, LB 939, § 2; Laws 1998, LB 309, § 14; Laws 1999, LB 585, § 6; Laws 2000, LB 1004, § 2; Laws 2001, LB 38, § 48; Laws 2001, LB 773, § 16; Laws 2003, LB 209, § 12; Laws 2004, LB 208, § 11. Effective date July 16, 2004.

**60-6,197.01. Driving under influence of alcoholic liquor or drug; second and subsequent violations; restrictions on motor vehicles.** (1) Upon conviction for a second or subsequent violation of section 60-6,196 or 60-6,197, the court shall impose either of the following restrictions on all motor vehicles owned by the person so convicted:

(a)(i) The court shall order the motor vehicle or motor vehicles immobilized at the owner's expense for a period of time not less than five days and not more than eight months and shall notify the Department of Motor Vehicles of the period of immobilization. Any immobilized motor vehicle shall be released to the holder of a bona fide lien on the motor vehicle executed prior to such immobilization when possession of the motor vehicle is requested as provided by law by such lienholder for purposes of foreclosing and satisfying such lien. If a person tows and stores a motor vehicle pursuant to this subdivision at the direction of a peace officer or the court and has a lien upon such motor vehicle while it is in his or her possession for reasonable towing and storage charges, the person towing the vehicle has the right to retain such motor vehicle until such lien is paid. For purposes of this subdivision, immobilized or immobilization means revocation or suspension, at the discretion of the court, of the registration of such motor vehicle or motor vehicles, including the license plates; and

(ii)(A) Any immobilized motor vehicle shall be released by the court without any legal or physical restraints to any registered owner who is not the registered owner convicted of a second or subsequent violation of section 60-6,196 or 60-6,197 if an affidavit is submitted to the court by such registered owner stating that the affiant is employed, that the motor vehicle subject to immobilization is necessary to continue that employment, that such employment is necessary for the well-being of the affiant's dependent children or parents, that the affiant will not authorize the use of the motor vehicle by any person known by the affiant to have been convicted of a second or subsequent violation of section 60-6,196 or 60-6,197, that affiant will immediately report to a local law enforcement agency any unauthorized use of the motor vehicle by any person known by the affiant to have been convicted of a second or subsequent conviction of section 60-6,196 or 60-6,197, and that failure to release the motor vehicle would cause undue hardship to the affiant.

(B) A registered owner who executes an affidavit pursuant to subdivision (1)(a)(ii)(A) of this section which is acted upon by the court and who fails to immediately report an unauthorized use of the motor vehicle which is the subject of the affidavit is guilty of a Class IV misdemeanor and may not file any additional affidavits pursuant to subdivision (1)(a)(ii)(A) of this section.

(C) The department shall adopt and promulgate rules and regulations to implement the provisions of subdivision (1)(a) of this section; or

(b) As an alternative to subdivision (1)(a) of this section, the court shall order the installation of an ignition interlock device on each of the owner's motor vehicles if the owner was sentenced to an operator's license revocation of at least one year and has completed at least one year of such revocation. No license reinstatement may occur until sufficient evidence is presented to the department that an ignition interlock device is installed on each vehicle and that the applicant is eligible for use of an ignition interlock device. The installation of an ignition interlock device shall be for a period not less than six months commencing upon the end of such year of the operator's license revocation. Notwithstanding any other provision of law, if the owner was convicted of a second or subsequent violation of section 60-6,196 or 60-6,197, no ignition interlock device shall be ordered by any court or state agency under any circumstances until at least one year of the operator's license revocation shall have elapsed.

(2) In addition to the restrictions required by subdivision (1)(b) of this section, the court may require a person convicted of a second or subsequent violation of section 60-6,196 or 60-6,197 to use a continuous alcohol monitoring device and abstain from alcohol use for a period of time not to exceed the maximum term of license revocation ordered by the court. A

continuous alcohol monitoring device shall not be ordered for a person convicted of a second or subsequent violation unless the installation of an ignition interlock device is also required.

Source: Laws 1999, LB 585, § 7; Laws 2001, LB 38, § 49; Laws 2006, LB 925, § 10. Effective date July 14, 2006.

**60-6,197.02. Driving under influence of alcoholic liquor or drugs; implied consent to submit to chemical test; terms, defined; prior convictions; use.** (1) A violation of section 60-6,196 or 60-6,197 shall be punished as provided in section 60-6,197.03. For purposes of sentencing under section 60-6,197.03:

(a) Prior conviction means a conviction for a violation committed within the twelve-year period prior to the offense for which the sentence is being imposed as follows:

(i) For a violation of section 60-6,196:

(A) Any conviction for a violation of section 60-6,196;

(B) Any conviction for a violation of a city or village ordinance enacted in conformance with section 60-6,196;

(C) Any conviction under a law of another state if, at the time of the conviction under the law of such other state, the offense for which the person was convicted would have been a violation of section 60-6,196; or

(D) Any conviction for a violation of section 60-6,198; or

(ii) For a violation of section 60-6,197;

(A) Any conviction for a violation of section 60-6,197;

(B) Any conviction for a violation of a city or village ordinance enacted in conformance with section 60-6,197; or

(C) Any conviction under a law of another state if, at the time of the conviction under the law of such other state, the offense for which the person was convicted would have been a violation of section 60-6,197;

(b) Prior conviction includes any conviction under section 60-6,196, 60-6,197, or 60-6,198, or any city or village ordinance enacted in conformance with any of such sections, as such sections or city or village ordinances existed at the time of such conviction regardless of subsequent amendments to any of such sections or city or village ordinances; and

(c) Twelve-year period means the period computed from the date of the prior offense to the date of the offense which resulted in the conviction for which the sentence is being imposed.

(2) In any case charging a violation of section 60-6,196 or 60-6,197, the prosecutor or investigating agency shall use due diligence to obtain the person's driving record from the Department of Motor Vehicles and the person's driving record from other states where he or she is known to have resided within the last twelve years. The prosecutor shall certify to the court, prior to sentencing, that such action has been taken. The prosecutor shall present as evidence for purposes of sentence enhancement a court-certified copy or an authenticated copy of a prior conviction in another state. The court-certified or authenticated copy shall be prima facie evidence of such prior conviction.

(3) For each conviction for a violation of section 60-6,196 or 60-6,197, the court shall, as part of the judgment of conviction, make a finding on the record as to the number of the convicted person's prior convictions. The convicted person shall be given the opportunity to review the record of his or her prior convictions, bring mitigating facts to the attention of the court prior to sentencing, and make objections on the record regarding the validity of such prior convictions.

Source: Laws 2004, LB 208, § 12; Laws 2005, LB 594, § 2. Effective date September 4, 2005.

**60-6,197.03. Driving under influence of alcoholic liquor or drugs; implied consent to submit to chemical test; penalties.** Any person convicted of a violation of section 60-6,196 or 60-6,197 shall be punished as follows:

(1) Except as provided in subdivision (2) of this section, if such person has not had a prior conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked or impounded for a period of six months from the date ordered by the court. Such revocation or impoundment shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked or impounded for a period of sixty days from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05, and such order of probation or sentence suspension shall also include, as one of its conditions, the payment of a four-hundred-dollar fine;

(2) If such person has not had a prior conviction and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of one year from the date ordered by the court. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked or impounded for a period of one year from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05, and such order of probation or sentence suspension shall also include, as conditions, the payment of a five-hundred-

dollar fine and either confinement in the city or county jail for two days or the imposition of not less than one hundred twenty hours of community service;

(3) Except as provided in subdivision (5) of this section, if such person has had one prior conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of one year from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked or impounded for a period of one year from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01, and such order of probation or sentence suspension shall also include, as conditions, the payment of a five-hundred-dollar fine and either confinement in the city or county jail for ten days or the imposition of not less than two hundred forty hours of community service;

(4) Except as provided in subdivision (6) of this section, if such person has had two prior convictions, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of at least two years but not more than fifteen years from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01, and such order of probation or sentence suspension shall also include, as conditions, the payment of a six-hundred-dollar fine and confinement in the city or county jail for thirty days;

(5) If such person has had one prior conviction and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, such person shall be guilty of a Class I misdemeanor, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of at least one year but not more than fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least ninety days' imprisonment in the city or county jail or an adult correctional facility.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked or impounded for a period of at least one year but not more than fifteen years from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01, and such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and confinement in the city or county jail for thirty days;

(6) If such person has had two prior convictions and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, such person shall be guilty of a Class IIIA felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least one hundred eighty days' imprisonment in the city or county jail or an adult correctional facility.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of at least five years but not more than fifteen years from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01, and such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and confinement in the city or county jail for sixty days;

(7) Except as provided in subdivision (8) of this section, if such person has had three prior convictions, such person shall be guilty of a Class IIIA felony, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least one hundred eighty days' imprisonment in the city or county jail or an adult correctional facility.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the

conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01, and such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and confinement in the city or county jail for ninety days;

(8) If such person has had three prior convictions and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, such person shall be guilty of a Class III felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01, and such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and confinement in the city or county jail for one hundred twenty days;

(9) Except as provided in subdivision (10) of this section, if such person has had four or more prior convictions, such person shall be guilty of a Class III felony, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01, and such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and confinement in the city or county jail for one hundred eighty days; and

(10) If such person has had four or more prior convictions and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, such person shall be guilty of a Class II felony and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01, and such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and confinement in the city or county jail for one hundred eighty days.

Source: Laws 2004, LB 208, § 13; Laws 2005, LB 594, § 3; Laws 2006, LB 925, § 11. Effective date July 14, 2006.

**60-6,197.04. Driving under influence of alcoholic liquor or drugs; preliminary breath test; refusal; penalty.** Any peace officer who has been duly authorized to make arrests for violation of traffic laws of this state or ordinances of any city or village may require any person who operates or has in his or her actual physical control a motor vehicle in this state to submit to a preliminary test of his or her breath for alcohol concentration if the officer has reasonable grounds to believe that such person has alcohol in his or her body, has committed a moving traffic violation, or has been involved in a traffic accident. Any person who refuses to submit to such preliminary breath test or whose preliminary breath test results indicate an alcohol concentration in violation of section 60-6,196 shall be placed under arrest. Any person who refuses to submit to such preliminary breath test shall be guilty of a Class V misdemeanor.

Source: Laws 2004, LB 208, § 14. Effective date July 16, 2004.

**60-6,197.05. Driving under influence of alcoholic liquor or drugs; revocation; effect.** Any period of revocation imposed for a violation of section 60-6,196 shall be reduced by any period imposed under section 60-498.02. Any period of revocation imposed under subdivision (1) of section 60-6,197.03 for a violation of section 60-6,196 or under subdivision (2)(a) of section 60-6,196, as such section existed prior to July 16, 2004, shall not prohibit the operation of a motor vehicle under the terms and conditions of an employment driving permit issued pursuant to subsection (2) of section 60-498.02.

Source: Laws 2004, LB 208, § 15. Effective date July 16, 2004.

**60-6,197.06. Operating motor vehicle during revocation period; penalties.** Any person operating a motor vehicle on the highways or streets of this state while his or her operator's license has been revoked pursuant to subdivision (4), (5), (6), (7), (8), (9), or (10) of section 60-6,197.03 or section 60-6,198, or pursuant to subdivision (2)(c) or (2)(d) of section 60-6,196 or subdivision (4)(c) or (4)(d) of section 60-6,197 as such subdivisions existed prior to July 16, 2004, shall be guilty of a Class IV felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. If such person has had a conviction under this section or under subsection (6) of section 60-6,196 or subsection (7) of section 60-6,197, as such subsections existed prior to July 16, 2004, prior to the date of the current conviction under this section, such person shall be guilty of a Class III felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

Source: Laws 2004, LB 208, § 16; Laws 2006, LB 925, § 12. Effective date July 14, 2006.

**60-6,197.07. Driving under influence of alcoholic liquor or drugs; implied consent to submit to chemical test; city or village ordinances; authorized.** Any city or village may enact ordinances in conformance with sections 60-6,196 and 60-6,197. Upon conviction of any person of a violation of such a city or village ordinance, the provisions of sections 60-6,197.02 and 60-6,197.03 with respect to the operator's license of such person shall be applicable the same as though it were a violation of section 60-6,196 or 60-6,197.

Source: Laws 2004, LB 208, § 17. Effective date July 16, 2004.

**60-6,197.08. Driving under influence of alcoholic liquor or drugs; presentence evaluation.** Any person who has been convicted of driving while intoxicated shall, during a presentence evaluation, submit to and participate in an alcohol assessment by a licensed alcohol and drug counselor. The alcohol assessment shall be paid for by the person convicted of driving while intoxicated. At the time of sentencing, the judge, having reviewed the assessment results, may then order the convicted person to follow through on the alcohol assessment results at the convicted person's expense in addition to any penalties deemed necessary.

Source: Laws 2004, LB 208, § 18; Laws 2006, LB 925, § 13. Effective date July 14, 2006.

**60-6,197.09. Driving under influence of alcoholic liquor or drugs; not eligible for probation, suspended sentence, or employment driving permit.** Notwithstanding the provisions of section 60-498.02 or 60-6,197.03, a person who commits a violation punishable under subdivision (3)(b) or (c) of section 28-306 or a violation of section 60-6,196, 60-6,197, or 60-6,198 while participating in criminal proceedings for a violation of section 60-6,196, 60-6,197, or 60-6,198, or a city or village ordinance enacted in accordance with section 60-6,196, or 60-6,197, or a law of another state if, at the time of the violation under the law of such other state, the offense for which the person was charged would have been a violation of section 60-6,197, shall not be eligible to receive a sentence of probation, a suspended sentence, or an employment driving permit authorized under subsection (2) of section 60-498.02 for either violation committed in this state.

Source: Laws 2006, LB 925, § 14. Effective date July 14, 2006.

**60-6,198. Driving under influence of alcoholic liquor or drugs; serious bodily injury; violation; penalty.** (1) Any person who, while operating a motor vehicle in violation of section 60-6,196 or 60-6,197, proximately causes serious bodily injury to another person or an unborn child of a pregnant woman shall be guilty of a Class IIIA felony and the court shall, as part of the judgment of conviction, order the person not to drive any motor vehicle for any purpose for a period of at least sixty days and not more than fifteen years from the date ordered by the court and shall order that the operator's license of such person be revoked for the same period.

(2) For purposes of this section, serious bodily injury shall mean bodily injury which involves a substantial risk of death, a substantial risk of serious permanent disfigurement, or a temporary or protracted loss or impairment of the function of any part or organ of the body.

(3) For purposes of this section, unborn child shall have the same meaning as in section 28-396.

Source: Laws 1986, LB 153, § 6; Laws 1992, LB 291, § 13; R.S.Supp., 1992, § 39-669.39; Laws 1993, LB 370, § 307; Laws 1997, LB 364, § 17; Laws 2001, LB 38, § 50; Laws 2006, LB 57, § 10. Effective date April 14, 2006.

**60-6,199. Driving under influence of alcoholic liquor or drugs; test; additional test; refusal to permit; effect; results of test; available upon request.** The peace officer who requires a chemical blood, breath, or urine test or tests pursuant to section 60-6,197 may direct whether the test or tests shall be of blood, breath, or urine. The person tested shall be permitted to have a physician of his or her choice evaluate his or her condition and perform or have performed whatever

laboratory tests he or she deems appropriate in addition to and following the test or tests administered at the direction of the officer. If the officer refuses to permit such additional test to be taken, then the original test or tests shall not be competent as evidence. Upon the request of the person tested, the results of the test or tests taken at the direction of the officer shall be made available to him or her.

Source: Laws 1959, c. 168, §2, p. 613; Laws 1961, c. 187, §3, p. 578; Laws 1963, c. 227, §1, p. 712; Laws 1971, LB 948, §3; Laws 1972, LB 1905, §3; C.S. Supp., 1972, §39-669.09; Laws 1990, LB 799, §3; R.S. Supp., 1992, §39-669.09; Laws 1993, LB 370, §294.

**60-6,200. Driving under influence of alcoholic liquor or drugs; chemical test; consent of person incapable of refusal not withdrawn.** Any person who is unconscious or who is otherwise in a condition rendering him or her incapable of refusal shall be deemed not to have withdrawn the consent provided by section 60-6,197 and the test may be given.

Source: Laws 1959, c. 168, §3, p. 614; R.R.S. 1943, §39-727.05; R.S. 1943, (1988), §39-669.10; Laws 1993, LB 370, §295.

**60-6,201. Driving under influence of alcoholic liquor or drugs; chemical test; violation of statute or ordinance; results; competent evidence; permit; fee.** (1) Any test made under section 60-6,197, if made in conformity with the requirements of this section, shall be competent evidence in any prosecution under a state statute or city or village ordinance involving operating a motor vehicle while under the influence of alcoholic liquor or drugs or involving driving or being in actual physical control of a motor vehicle when the concentration of alcohol in the blood or breath is in excess of allowable levels.

(2) Any test made under section 60-6,211.02, if made in conformity with the requirements of this section, shall be competent evidence in any prosecution involving operating or being in actual physical control of a motor vehicle in violation of section 60-6,211.01.

(3) To be considered valid, tests of blood, breath, or urine made under section 60-6,197 or tests of blood or breath made under section 60-6,211.02 shall be performed according to methods approved by the Department of Health and Human Services Regulation and Licensure and by an individual possessing a valid permit issued by such department for such purpose, except that a physician, registered nurse, or other trained person employed by a licensed health care facility or health care service which is defined in the Health Care Facility Licensure Act or clinical laboratory certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, as such act existed on September 1, 2001, or Title XVIII or XIX of the federal Social Security Act, as such act existed on September 1, 2001, to withdraw human blood for scientific or medical purposes, acting at the request of a peace officer, may withdraw blood for the purpose of a test to determine the alcohol concentration or the presence of drugs and no permit from the department shall be required for such person to withdraw blood pursuant to such an order. The department may approve satisfactory techniques or methods to perform such tests and may ascertain the qualifications and competence of individuals to perform such tests and issue permits which shall be subject to termination or revocation at the discretion of the department.

(4) A permit fee may be established by regulation by the department which shall not exceed the actual cost of processing the initial permit. Such fee shall be charged annually to each permitholder. The fees shall be used to defray the cost of processing and issuing the permits and other expenses incurred by the department in carrying out this section. The fee shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund as a laboratory service fee.

(5) Relevant evidence shall not be excluded in any prosecution under a state statute or city or village ordinance involving operating a motor vehicle while under the influence of alcoholic liquor or drugs or involving driving or being in actual physical control of a motor vehicle when the concentration of alcohol in the blood or breath is in excess of allowable levels on the ground that the evidence existed or was obtained outside of this state.

Source: Laws 1959, c. 168, § 4, p. 614; Laws 1963, c. 228, § 2, p. 715; Laws 1963, c. 229, § 2, p. 716; Laws 1971, LB 948, § 4; C.S.Supp.,1972, § 39-727.06; Laws 1986, LB 1047, § 1; Laws 1987, LB 224, § 2; Laws 1990, LB 799, § 4; Laws 1992, LB 872, § 2; Laws 1992, LB 291, § 6; R.S.Supp.,1992, § 39-669.11; Laws 1993, LB 370, § 296; Laws 1993, LB 564, § 9; Laws 1996, LB 1044, § 284; Laws 2000, LB 819, § 76; Laws 2000, LB 1115, § 7; Laws 2001, LB 773, § 17. Effective date September 1, 2001.

**60-6,202. Driving under influence of alcoholic liquor or drugs; blood test; withdrawing requirements; damages; liability; when.** (1) Any physician, registered nurse, other trained person employed by a licensed health care facility or health care service defined in the Health Care Facility Licensure Act, a clinical laboratory certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII or XIX of the federal Social Security Act, as amended, to withdraw human blood for scientific or medical purposes, or a hospital shall be an agent of the State of Nebraska when performing the act of withdrawing blood at the request of a peace officer pursuant to sections 60-6,197 and 60-6,211.02. The state shall be liable in damages for any illegal or negligent acts or omissions of such agents in performing the act of withdrawing blood. The agent shall not be individually liable in damages or otherwise for any act done or omitted in performing the act of withdrawing blood at the request of a peace officer pursuant to such sections except for acts of willful,

wanton, or gross negligence of the agent or of persons employed by such agent.

(2) Any person listed in subsection (1) of this section withdrawing a blood specimen for purposes of section 60-6,197 or 60-6,211.02 shall, upon request, furnish to any law enforcement agency or the person being tested a certificate stating that such specimen was taken in a medically acceptable manner. The certificate shall be signed under oath before a notary public and shall be admissible in any proceeding as evidence of the statements contained in the certificate. The form of the certificate shall be prescribed by the Department of Health and Human Services Regulation and Licensure and such forms shall be made available to the persons listed in subsection (1) of this section.

Source: Laws 1959, c. 168, § 5, p. 614; Laws 1971, LB 948, § 5; C.S.Supp., 1972, § 39-727.07; Laws 1974, LB 679, § 1; Laws 1975, LB 140, § 1; Laws 1992, LB 291, § 7; R.S.Supp., 1992, § 39-669.12; Laws 1993, LB 370, § 297; Laws 1993, LB 564, § 10; Laws 1997, LB 210, § 5; Laws 2000, LB 819, § 77; Laws 2000, LB 1115, § 8. Note: The changes made by LB 1115 became effective April 14, 2000. The changes made by LB 819 became operative January 1, 2001.

**60-6,203. Driving under the influence of liquor or drug; violation of city or village ordinance; fee for test; court costs.** Upon the conviction of any person for violation of section 60-6,196 or 60-6,211.01 or of driving a motor vehicle while under the influence of alcoholic liquor or of any drug in violation of any city or village ordinance, there shall be assessed as part of the court costs the fee charged by any physician or any agency administering tests pursuant to a permit issued in accordance with section 60-6,201, for the test administered and the analysis thereof under the provisions of sections 60-6,197 and 60-6,211.02, if such test was actually made.

Source: Laws 1961, c. 188, §1, p. 579; Laws 1971, LB 948, §6; C.S. Supp., 1972, §39-727.13; Laws 1978, LB 673, §1; R.S. 1943, (1988), §39-669.13; Laws 1993, LB 370, §298; Laws 1993, LB 564, §11.

**60-6,204. Driving under influence of alcoholic liquor or drugs; test without preliminary breath test; when; qualified personnel.** Any person arrested for any offense involving the operation or actual physical control of a motor vehicle while under the influence of alcoholic liquor or drugs shall be required to submit to a chemical test or tests of his or her blood, breath, or urine as provided in section 60-6,197 without the preliminary breath test if the arresting peace officer does not have available the necessary equipment for administering a breath test or if the person is unconscious or is otherwise in a condition rendering him or her incapable of testing by a preliminary breath test. Only a physician, registered nurse, or other trained person employed by a licensed health care facility or health care service defined in the Health Care Facility Licensure Act or a clinical laboratory certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII or XIX of the federal Social Security Act to withdraw human blood for scientific or medical purposes, acting at the request of a peace officer, may withdraw blood for the purpose of determining the concentration of alcohol or the presence of drugs, but this limitation shall not apply to the taking of a urine or breath specimen.

Source: Laws 1971, LB 948, § 7; Laws 1972, LB 1095, § 4; C.S.Supp., 1972, § 39-727.15; Laws 1974, LB 679, § 2; Laws 1990, LB 799, § 5; Laws 1992, LB 291, § 8; R.S.Supp., 1992, § 39-669.14; Laws 1993, LB 370, § 299; Laws 2000, LB 819, § 78; Laws 2000, LB 1115, § 9. Note: The changes made by LB 1115 became effective April 14, 2000. The changes made by LB 819 became operative January 1, 2001.

**60-6,205. Transferred** to section 60-498.01.

**60-6,206. Transferred** to section 60-498.02.

**60-6,207. Transferred** to section 60-498.03.

**60-6,208. Transferred** to section 60-498.04.

**60-6,209. License revocation; reinstatement; conditions; department; Board of Pardons; duties; fee.** (1) Any person whose operator's license has been revoked pursuant to a conviction for a violation of sections 60-6,196, 60-6,197, and 60-6,199 to 60-6,204 for a third or subsequent time for a period of fifteen years may apply to the Department of Motor Vehicles, on forms prescribed by the department, requesting the department to make a recommendation to the Board of Pardons for reinstatement of his or her eligibility for an operator's license. Upon receipt of the application, the Director of Motor Vehicles shall review the application if such person has served at least seven years of such revocation and make a recommendation for reinstatement or for denial of reinstatement. The department may recommend reinstatement if such person shows the following:

(a) Such person has completed a state-certified substance abuse program and is recovering or such person has substantially recovered from the dependency on or tendency to abuse alcohol or drugs;

(b) Such person has not been convicted, since the date of the revocation order, of any subsequent violations of section 60-6,196 or 60-6,197 or any comparable city or village ordinance and the applicant has not, since the date of the revocation order, submitted to a chemical test under section 60-6,197 that indicated an alcohol concentration in violation of section 60-6,196 or refused to submit to a chemical test under section 60-6,197;

(c) Such person has not been convicted, since the date of the revocation order, of driving while under suspension, revocation, or impoundment under section 60-4,109;

(d) Such person has abstained from the consumption of alcoholic beverages and the consumption of drugs except at the



direction of a licensed physician or pursuant to a valid prescription; and

(e) Such person's operator's license is not currently subject to suspension or revocation for any other reason.

(2) In addition, the department may require other evidence from such person to show that restoring such person's privilege to drive will not present a danger to the health and safety of other persons using the highways.

(3) Upon review of the application, the director shall make the recommendation to the Board of Pardons in writing and shall briefly state the reasons for the recommendations. The recommendation shall include the original application and other evidence submitted by such person. The recommendation shall also include any record of any other applications such person has previously filed under this section.

(4) The department shall adopt and promulgate rules and regulations to govern the procedures for making a recommendation to the Board of Pardons. Such rules and regulations shall include the requirement that the treatment programs and counselors who provide information about such person to the department must be certified or licensed by the state.

(5) If the Board of Pardons reinstates such person's eligibility for an operator's license, such reinstatement may be conditioned for the duration of the original revocation period on such person's continued recovery. If such person is convicted of any subsequent violation of section 60-6,196 or 60-6,197, the reinstatement of the person's eligibility for an operator's license shall be withdrawn and such person's operator's license will be revoked by the Department of Motor Vehicles for the time remaining under the original revocation, independent of any sentence imposed by the court, after thirty days' written notice to the person by first-class mail at his or her last-known mailing address as shown by the records of the department.

(6) If the Board of Pardons reinstates a person's eligibility for an operator's license, the board shall notify the Department of Motor Vehicles of the reinstatement. Such person may apply for an operator's license upon payment of a fee of one hundred twenty-five dollars and the filing of proof of financial responsibility. The fees paid pursuant to this section shall be collected by the department and remitted to the State Treasurer. The State Treasurer shall credit seventy-five dollars of each fee to the General Fund and fifty dollars of each fee to the Department of Motor Vehicles Cash Fund.

Source: Laws 1992, LB 291, § 10; R.S.Supp.,1992, § 39-669.19; Laws 1993, LB 370, § 304; Laws 1998, LB 309, § 18; Laws 2001, LB 38, § 54; Laws 2003, LB 209, § 13; Laws 2004, LB 208, § 12; Laws 2004, LB 1083, § 102. Note: The changes made by LB 1083 became operative July 1, 2004. The changes made by LB 208 became effective July 16, 2004.

**60-6,210. Blood sample; results of chemical test; admissible in criminal prosecution; disclosure required.** (1) If the driver of a motor vehicle involved in an accident is transported to a hospital within or outside of Nebraska and a sample of the driver's blood is withdrawn by a physician, registered nurse, qualified technician, or hospital for the purpose of medical treatment, the results of a chemical test of the sample shall be admissible in a criminal prosecution for a violation punishable under subdivision (3)(b) or (c) of section 28-306 or a violation of section 28-305, 60-6,196, or 60-6,198 to show the alcoholic content of or the presence of drugs or both in the blood at the time of the accident regardless of whether (a) a peace officer requested the driver to submit to a test as provided in section 60-6,197 or (b) the driver had refused a chemical test.

(2) Any physician, registered nurse, qualified technician, or hospital in this state performing a chemical test to determine the alcoholic content of or the presence of drugs in such blood for the purpose of medical treatment of the driver of a vehicle involved in a motor vehicle accident shall disclose the results of the test (a) to a prosecuting attorney who requests the results for use in a criminal prosecution under subdivision (3)(b) or (c) of section 28-306 or section 28-305, 60-6,196, or 60-6,198 and (b) to any prosecuting attorney in another state who requests the results for use in a criminal prosecution for driving while intoxicated, driving under the influence, or motor vehicle homicide under the laws of the other state if the other state requires a similar disclosure by any hospital or person in such state to any prosecuting attorney in Nebraska who requests the results for use in such a criminal prosecution under the laws of Nebraska.

Source: Laws 1992, LB 872, § 3; R.S.Supp.,1992, § 39-669.20; Laws 1993, LB 370, § 305; Laws 2004, LB 208, § 20; Laws 2006, LB 925, § 15. Effective date July 14, 2006.

**60-6,211. Lifetime revocation of motor vehicle operator's license; reduction; procedure.** Any person who prior to April 19, 1986, has had his or her motor vehicle operator's license revoked for life pursuant to section 60-6,196 or 60-6,197 may submit an application to the court for a reduction of such lifetime revocation. The court in its discretion may reduce such revocation to a period of fifteen years.

Source: Laws 1986, LB 153, §5; R.S. 1943, (1988), §39-669.38; Laws 1993, LB 370, §306.

**60-6,211.01. Person under twenty-one years of age; prohibited acts.** It shall be unlawful for any person under twenty-one years of age to operate or be in the actual physical control of any motor vehicle:

(1) When such person has a concentration of two-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood but less than the concentration prescribed under subdivision (1)(b) of section 60-6,196; or

(2) When such person has a concentration of two-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath but less than the concentration prescribed under subdivision (1) (c) of section 60-6,196.

Source: Laws 1993, LB 564, §2; Laws 1998, LB 309, §19. Operative date April 19, 1998.

**60-6,211.02. Implied consent to submit to chemical test; when test administered; refusal; penalty.** (1) Any person who operates or has in his or her actual physical control a motor vehicle in this state shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood or breath for the purpose of determining the concentration of alcohol in such blood or breath.

(2) Any peace officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of any city or village may require any person under twenty-one years of age to submit to a chemical test or tests of his or her blood or breath for the purpose of determining the concentration of alcohol in such blood or breath when the officer has probable cause to believe that such person was driving or was in the actual physical control of a motor vehicle in this state in violation of section 60-6,211.01. Such peace officer may require such person to submit to a preliminary breath test. Any person who refuses to submit to such preliminary breath test or whose preliminary breath test results indicate an alcohol concentration in violation of section 60-6,211.01 shall be placed under arrest.

(3) Any person arrested as provided in this section may, upon the direction of a peace officer, be required to submit to a chemical test or tests of his or her blood or breath for a determination of the concentration of alcohol. If the chemical test discloses the presence of a concentration of alcohol in violation of section 60-6,211.01, the person shall be found guilty of a traffic infraction as defined in section 60-672 and upon conviction shall have his or her operator's license impounded by the court for thirty days for each violation of section 60-6,211.01. Any person who refuses to submit to such test or tests required pursuant to this section shall not have the tests taken but shall be found guilty of a traffic infraction as defined in section 60-672 and upon conviction shall have his or her operator's license impounded by the court for ninety days for refusal to submit to such tests required pursuant to this section.

Source: Laws 1993, LB 564, §3; Laws 1998, LB 309, §20. Operative date April 19, 1998.

**60-6,211.03. Impounded operator's license; operation relating to employment authorized.** Any person whose operator's license is impounded pursuant to section 60-6,211.02 may be allowed by the court to operate a motor vehicle in order to drive to and from his or her place of employment.

Source: Laws 1993, LB 564, §4; Laws 1998, LB 309, §21. Operative date April 19, 1998.

**60-6,211.04. Applicability of other laws.** Sections 60-6,211.01 to 60-6,211.03 shall not operate to prevent any person, regardless of age, from being prosecuted or having any action taken for a violation of section 60-6,196 or 60-6,197 or having his or her operator's license revoked pursuant to sections 60-498.01 to 60-498.04 for a violation of section 60-6,196 or 60-6,197 or from being prosecuted or having any action taken under any other provision of law. If such person is believed to be under the influence of alcoholic liquor pursuant to section 60-6,196 or 60-6,197, sections 60-6,211.01 to 60-6,211.03 shall not operate to prevent prosecution of such person for a violation of section 60-6,196 or 60-6,197 even if sections 60-6,211.01 to 60-6,211.03 apply.

Source: Laws 1993, LB 564, § 5; Laws 2003, LB 209, § 14; Laws 2004, LB 208, § 21. Effective date July 16, 2004.

**60-6,211.05. Ignition interlock device; continuous alcohol monitoring device and abstention from alcohol use; orders authorized; issuance of restricted Class O license; prohibited acts; violation; penalty.** (1) If an order of probation is granted under section 60-6,196 or 60-6,197, as such sections existed prior to July 16, 2004, or section 60-6,196 or 60-6,197 and sections 60-6,197.02 and 60-6,197.03, as such sections existed on or after July 16, 2004, the court may order the defendant to install an ignition interlock device of a type approved by the Director of Motor Vehicles on each motor vehicle operated by the defendant. The device shall, without tampering or the intervention of another person, prevent the defendant from operating the motor vehicle when the defendant has an alcohol concentration greater than the levels prescribed in section 60-6,196.

(2) If the court orders installation of an ignition interlock device pursuant to subsection (1) of this section, the court may also order the use of a continuous alcohol monitoring device and abstention from alcohol use at all times. The device shall, without tampering or the intervention of another person, test and record the alcohol consumption level of the defendant on a periodic basis and transmit such information to probation authorities.

(3) Any order issued by the court pursuant to this section shall not take effect until the defendant is eligible to operate a motor vehicle pursuant to subsection (2) of section 60-498.02.

(4) If the court orders an ignition interlock device or the Board of Pardons orders an ignition interlock device under section 83-1,127.02, the court or the Board of Pardons shall order the Department of Motor Vehicles to issue to the defendant a restricted Class O license as provided in section 60-4,118.06 which indicates that the defendant is only allowed to operate a motor vehicle equipped with an ignition interlock device. Such court order shall remain in effect for a period of time as determined by the court not to exceed the maximum term of revocation which the court could have imposed according to the nature of the violation. Such Board of Pardons order shall remain in effect for a period of time not to exceed any period of revocation the applicant is subject to at the time the application for a license reinstatement is made.

(5) A person who tampers with or circumvents an ignition interlock device installed under a court order while the order is in effect or who operates a motor vehicle which is not equipped with an ignition interlock device in violation of a court

order made pursuant to this section shall be guilty of a Class II misdemeanor.

(6) Any person restricted to operating a motor vehicle equipped with an ignition interlock device, pursuant to a Board of Pardons order, who operates upon the highways of this state a motor vehicle without such device or if the device has been disabled, bypassed, or altered in any way, shall be punished as provided in subsection (3) of section 83-1,127.02.

(7) If a person ordered to use a continuous alcohol monitoring device and abstain from alcohol use pursuant to a court order as provided in subsection (2) of this section violates the provisions of such court order by removing, tampering with, or otherwise bypassing the continuous alcohol monitoring device or by consuming alcohol while required to use such device, he or she shall have his or her Class O license revoked and be unable to apply for license reinstatement for the duration of the revocation period imposed by the court.

(8) The director shall adopt and promulgate rules and regulations to approve ignition interlock devices and the means of installation of the devices.

Source: Laws 1993, LB 564, § 6; Laws 1998, LB 309, § 24; Laws 2001, LB 38, § 55; Laws 2003, LB 209, § 15; Laws 2004, LB 208, § 22; Laws 2006, LB 925, § 16. Effective date July 14, 2006.

**60-6,211.06. Implied consent to submit to chemical test violation; court and department records; expungement; when authorized.** (1) An abstract of the court record of every person whose license has been impounded pursuant to section 60-6,211.02 shall be transmitted to the Department of Motor Vehicles. This violation shall become part of the person's record maintained by the department for a period of not longer than ninety days. After ninety days, the department shall expunge the violation from the person's record.

(2) Any person whose license has been impounded pursuant to section 60-6,211.02 and who refused to submit to a chemical test or tests required pursuant to such section shall have the violation become part of the person's record maintained by the department for a period of not longer than one hundred twenty days. After one hundred twenty days, the department shall expunge the violation from the person's record.

Source: Laws 1998, LB 309, §22. Operative date April 19, 1998.

**60-6,211.07. Implied consent to submit to chemical test violation; impounded license; return; prohibited act; effect.** (1) At the end of the impoundment period under section 60-6,211.02, the operator's license shall be returned by the court to the licensee. (2) Any person who unlawfully operates a motor vehicle during the period of impoundment shall be subject to section 60-4,108.

Source: Laws 1998, LB 309, § 23; Laws 2001, LB 38, § 56. Operative date January 1, 2002.

**60-6,211.08. Open alcoholic beverage container; consumption of alcoholic beverages; prohibited acts.** (1) For purposes of this section:

(a) Alcoholic beverage means (i) beer, ale porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor, (ii) wine of not less than one-half of one percent of alcohol by volume, or (iii) distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced. Alcoholic beverage does not include trace amounts not readily consumable as a beverage;

(b) Highway means a road or street including the entire area within the right-of-way;

(c) Open alcoholic beverage container, except as provided in subsection (3) of section 53-123.04 and subdivision (1)(c) of section 53-123.11, means any bottle, can, or other receptacle:

(i) That contains any amount of alcoholic beverage; and

(ii)(A) That is open or has a broken seal or (B) the contents of which are partially removed; and

(d) Passenger area means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in such area. Passenger area does not include the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(2) It is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this state.

(3) Except as provided in section 53-186, it is unlawful for any person to consume an alcoholic beverage (a) in a public parking area or on any highway in this state or (b) inside a motor vehicle while in a public parking area or on any highway in this state.

Source: Laws 1999, LB 585, § 4; Laws 2006, LB 562, § 6. Effective date July 14, 2006.

**60-6,211.09. Continuous alcohol monitoring devices; Office of Probation Administration; duties.** The Office of Probation Administration shall adopt and promulgate rules and regulations to approve the use of continuous alcohol monitoring devices by individuals sentenced to probation for violating section 60-6,196 or 60-6,197.

Source: Laws 2006, LB 925, § 17. Effective date July 14, 2006.